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THE  
UNION PUBLIC SERVICE COMMISSION



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During my research on the Union Public Service Commission I imposed on number of senior officials of the Commission and the Ministry of Home Affairs for access to their memories and their personal files. Many of my informants insisted that they would like to remain anonymous. Therefore, I cannot thank them by name. But I can state that no words can express my appreciation for the assistance rendered by them.

I would be failing in my duty if I do not express my gratitude to Prof. J. N. Khosla, Director, Indian Institute of

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March 6, 1967.

M.A. MUTTALIB

## >PREFACE

It would be interesting to recall that the main objective sought to be achieved when a Public Service Commission was first set up in India in 1926 was to protect from all personal influences recruitment to the All India Services and the Central Services, Class I. The Public Services Commission was then considered necessary primarily as a safeguard for these services against what the Government of India considered at the time to be "the dangers that have been found to attend the development of democratic institutions". The Commissions created by the Government of India Act of 1935 were likewise based on a mistrust of ministerial influence and these bodies were deliberately made subordinate to the Governor General and the Governors "acting in their discretion". With the advent of Independence, two important developments have taken place in regard to the public services. First, the Legislatures have become more and more anxious to unearth and expose what might appear to them to be instances of jobbery and nepotism: and, second, the services have expanded very rapidly and have also become increasingly conscious of their rights. Above all, there is the compelling need in a Welfare State to maintain a civil service of the highest calibre and morale.<

It is in order to assist Governments to maintain and manage an efficient public service that the Constitution has created Public Service Commissions, and endowed them with status and dignity. To the authors of the Constitution the existence of an independent Public Service Commission was an essential prerequisite for securing good administration.

> [The main object of Professor Muttalib's study is to examine how far the Union Public Service Commission as an independent institution has been able to fulfil its important role as an impartial and expert adviser to the Government of India and as a watchdog of the merit system.] His is the first full-length analysis of the composition, organisation and working of the Union Public Service Commission undertaken for the Indian

Institute of Public Administration, with the active co-operation of the Union Public Service Commission. He has analysed the techniques employed by the Commission for recruitment to the Public Service in the light of the welfare state commitments of the Government of India. His suggestions for improvement in the working of the Commission deserve close attention.

We are grateful to the Osmania University, in particular to Dr. D. S. Reddi, Vice-Chancellor of the University, for lending the services of Dr. M. A. Muttalib for undertaking this study. Our special gratitude goes to the Union Public Service Commission specially to Shri V. S. Hejmadi, former Chairman of the Union Public Service Commission for their keen interest and co-operation in this study.

It is hardly necessary to add that the views expressed in this study are those of the author and not of either the Institute which sponsored the study or the Union Public Service Commission which provided facilities for it.

J. N. KHOSLA

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New Delhi,  
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## INTRODUCTION

The institution of the Public Service Commission, which was first established in 1926 on the soil of India, has been looked upon as a bulwark of democracy.<sup>1</sup> For it supports and advances the meaning and practice of democracy in providing that merit alone is the criterion in the management of the public service. It protects the Administration against the possible excesses of democratic institutions by furnishing it with an impartial instrument by which Government, whatever its political complexion, may give effect to its policies. Further, by securing independent consideration of service matters, it helps the Executive in maintaining an essential balance between politics and bureaucracy, a basic problem of democratic administration—the problem implicit in the political scientists's phrase, "political sterilization of civil servants".<sup>2</sup>

The public service occupies a unique position in India. The prestige that it commands is in part the carry-over of attitudes developed from the early past down to the days of the British rule. In the domain of employment the public service constituted a valuable link between the rulers and the illiterate masses. In a land where there has been relatively little industry which could provide opportunities for employment, educated Indians have for many decades regarded the various ranks of the service as prizes of great merit. Under the British rule a large number of civil servants rose to the highest posts in the civil

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<sup>1</sup> The institution of the Public Service Commission was regarded as an essential safeguard in the working of the self-governing institutions created under the Government of India Act, 1919. Indeed, it was a part of "the declared policy of the Parliament to provide for the increasing association of Indians in every branch of administration..." Also compare the views expressed by the members of the Indian Constituent Assembly and the comments offered by the members of Union and State legislatures on the Annual Reports of the Union and State Public Service Commissions.

<sup>2</sup> Epstein, L.D., "Political Sterilization of Civil Servants: The United States and Great Britain, Public Administration Review, Vol. X, 1950, pp. 281-290.

and the judicial administration. Some retired as Governors of Provinces, others as High Court and Federal Court Judges, and as members of the Viceroy's Executive Council. Further, the white-collar worker enjoys high status in the social hierarchy partly because government service is protected employment and it pays well in comparison with most other means of livelihood. The problem of attracting the most suitable of the available candidates for public positions is not, therefore, as acute in India as in certain advanced countries.

There has also been quantitative expansion of the public service both before and since Independence. The Aitchison Commission, the first to go into the question of the civil service in India reported in 1887 that the total number of sanctioned charges or offices for Covenanted Civilians for the whole of British India (excluding Burma, the Hyderabad Assigned Districts and Coorg), and in the Non-Regulation Provinces the Covenanted Civilians, Military Officers and Uncovenanted Officers promoted to the ranks of the several commissions, was only 765. About half a century later (before the outbreak of the Second World War) the total number of employees on the pay-roll of the Central Government alone (exclusive of members of the defence forces) was 807,000. By April 1948, this number rose to 14,45,000 while the number as on 30th September, 1962 was about 22,32,000 showing an increase of more than two and a half times in less than 15 years.

Thus there exist adequate reasons for confining this study to the Union Public Service Commission under whose tutelage there is a significant segment of the public service. The ever-growing importance of public administration since the advent of Independence with the acceptance of the Welfare State concept, creates new problems in regard to personnel matters of size, recruitment, re-appointment, promotion, discipline, etc., impartial consideration of which, in a democratic set-up, requires an independent and expert authority—the institution of the Public Service Commission.

The Union Public Service Commission may be studied from different standpoints. One possible approach to its examination can be from the angle of the constitution-makers: Were they justified in according it constitutional 'armour'?

It can be looked at from the viewpoint of Government, stressing the need of impartial consideration of service matters by an independent advisory body detached from all political associations in order to minimize the charges of favouritism and patronage that may be levelled against any government. The Commission can be seen from the standpoint of Parliament which is vested with ultimate control of the public service and with authority over the relationship between the Government and the Commission. It can be viewed from the angle of the civil servants who look to the Commission for their protection against undue political influences. It can be looked at from the perspective of the citizens as tax-payers and as job-seekers. Or it may be approached from the stand-point of its own *raison d'être*, of whether it justifies its existence by serving the values of a democratic set-up.]

While this study propounds no ideal Service Commission, offers no panacea for the ills of the Commission, advances no dogmas to prop up the Commission, it is intended to combine all the aforesaid approaches and to examine whether it has fulfilled the objectives with which it was established. [Prefaced by an historical and service background in appreciating the rationale of the conception of the Commission, the volume presents an analysis of its structure, organisation and functions, and closely examines it at work.]

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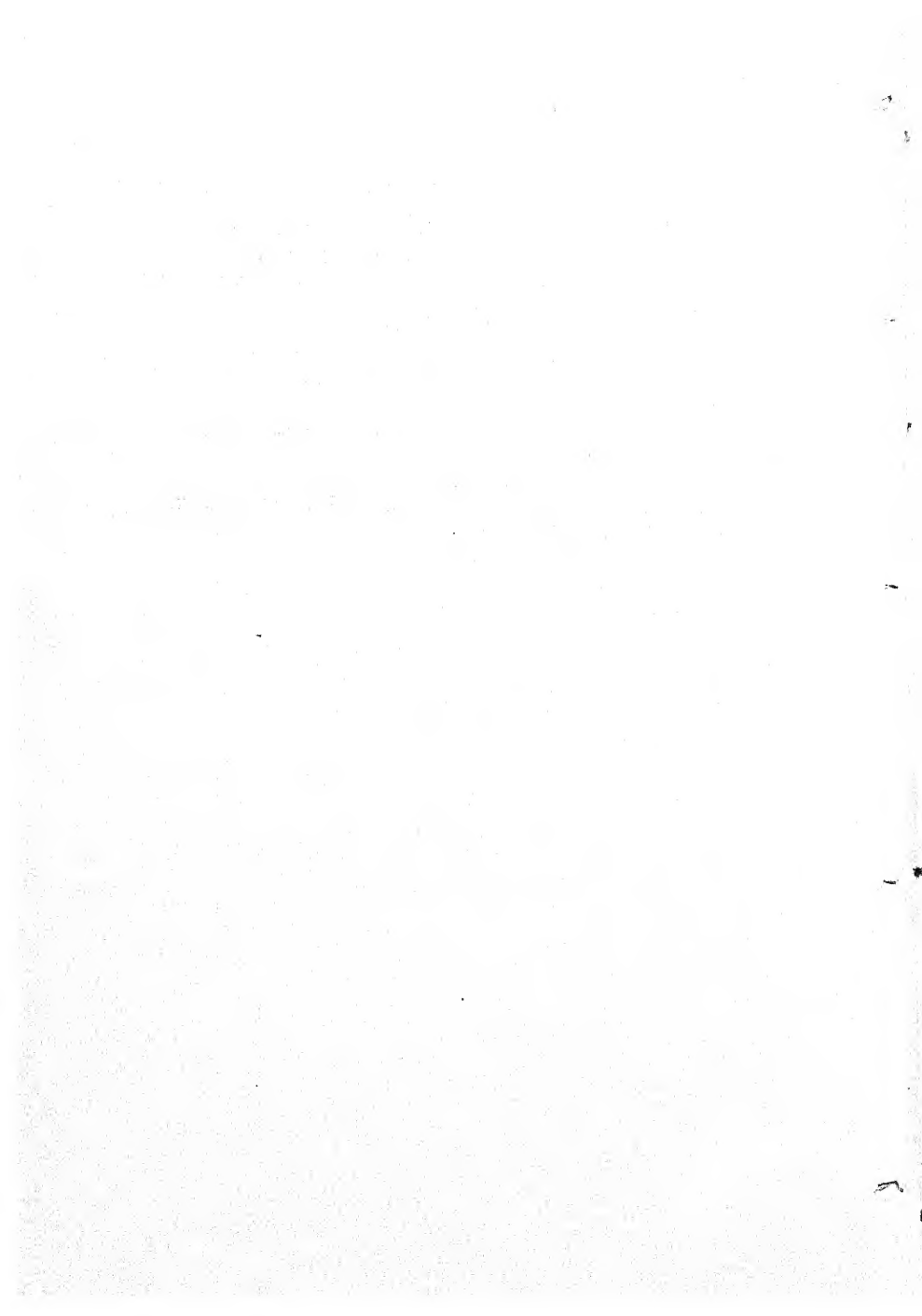
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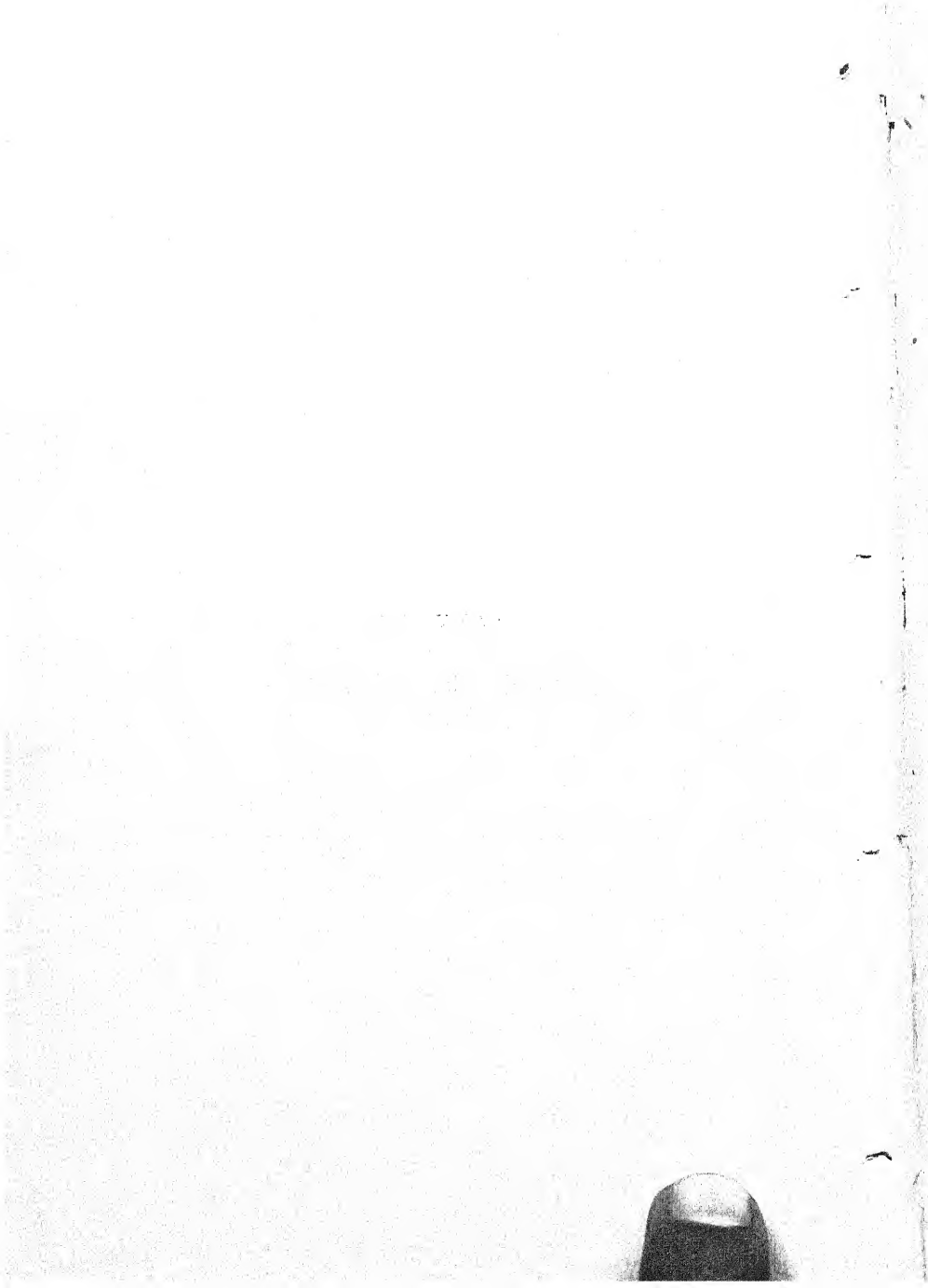
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PART ONE  
BACKGROUND



## CHAPTER I

# THE PUBLIC SERVICE : EVOLUTION AND STRUCTURE

### 1. SERVICES UNDER THE EAST INDIA COMPANY

The story of the formation and early development of the Indian public service is linked with the growth and decay of the East India Company. The public service of today, however, has hardly any feature in common with that of the service in the mercantile stage of the East India Company in the seventeenth century. From its semi-public stage of the eighteenth century, there is an organic connection and historical continuity between the two. The change in the character of the Company from 1600 to 1858 brought about a corresponding change in the character of its civil servants. When the Company was essentially a commercial corporation, its civil servants were almost purely mercantile servants. In the second half of the eighteenth century, especially in the wake of the Company's victories at Plassey in 1757 and at Buxar in 1764, it found itself in the role of a *de facto* sovereign. The immediate effect of these events upon its servants was their transformation into administrators of a semi-public character.

It was not until the end of the eighteenth century that the Company's civil service was freed from the traditions of its commercial origin and was placed on the footing of a regular modern civil service.<sup>1</sup> The Charter Act of 1793 established the general principle that posts in the civil administration were to be reserved for the members of the civil service. It barred outsiders and prevented them from obtaining appointments by means of patronage in England.<sup>2</sup> However, it was, in practice, found to be impossible to maintain such a monopoly.

<sup>1</sup> Cf. Ghosal, A. K., *Civil Service in India under the East India Company*, University of Calcutta, 1944, p. 235.

<sup>2</sup> O' Malley, L. S. S., *The Indian Civil Service, 1601-1930*, London, John Murray, 1931, pp. 40-41.



The civil service tended to undergo a definite change from 1833 when the Company ceased to be a commercial body ; and thereafter, it was no longer viewed simply as a means of bringing wealth and profit to England, but rather as an instrument to provide for the welfare of the people over whom it ruled. This metamorphosis was completed with the direct assumption of responsibility for Indian territories by the Crown in 1858.

The authority of the Company flowed from two sources : the Mughal grant and the British Law. "In the one capacity the Company was the all-powerful agent of an irresponsible despot ; in the other, it was tied and bound by the provisions of Charters and Acts of Parliament".<sup>3</sup> As regards its organisation at home, there were two bodies—the Court of Directors and the Court of Proprietors or the General Court. Their relationship was analogous to that between the directorate and the general body of share-holders of a Joint-Stock Company of the present day. The Court of Directors was in continuous operation, acting as the supreme authority in controlling the affairs of the Company in general. The Court of Directors framed the rules for the regulation of its civil service either in pursuance of the statutes of Parliament or subject to their subsequent statutory confirmation.<sup>4</sup>

As is indicated by the original titles of the Company's servants—Writers, Factors, Junior Merchants and Senior Merchants—they were a purely mercantile service. They were appointed and paid according to their individual merits until 1674, when something like a regular service was introduced specifying the salaries and conditions of tenure of the several grades.<sup>5</sup> But because of its "merchant-mindedness", the Company grudged paying adequate remuneration to its servants. In the absence of good salaries it was difficult to keep them from temptation and to ensure a high level of conduct. "It is no wonder, therefore, that they degenerated into a band of fortune-hunting adventurers, lost to all sense of public morality,

<sup>3</sup> Ilbert, Sir C., the Government of India, Oxford, 1915, p. 52.

<sup>4</sup> Misra, B. B., The Central Administration of the East India Company, 1773-1834, Manchester University Press, 1959, pp. 378-414.

<sup>5</sup> Blunt, Sir E., The I.C.S., The Indian Civil Service, Faber and Faber Limited, London, 1937, p. 15.

particularly in the 'masterless confusion' that prevailed in Bengal at the time."<sup>6</sup> It was for the most part due to the successive individual efforts of men like Hastings, Cornwallis and Wellesley that the foundation of a civil service in the modern sense, based upon sound principles of government, was laid. Hastings made a strenuous and loyal endeavour to amend and purify the service and Cornwallis freed it from the traditions of its commercial origin. Wellesley's scheme of education for civil servants not only "served as a sort of a corrective to the vicious character of the patronage of the Directors"<sup>7</sup>, but it also led ultimately to the establishment of competitive selection of civil servants and promotion by merit. Thus the introduction of the merit system, may in a way, be attributed to Wellesley.

In the early period of the Company's rule practically all its servants were brought from England. On appointment, each officer had to enter into a "Covenant" with the Company, signing a long printed indenture drawn up in a form approved by the Company's legal advisers, hence the term "Covenanted Servant".<sup>8</sup> The Covenant embodied the conditions of service and rights and obligations of the officer. It was necessary for each officer to furnish security at a sum fixed by the Company. In the early period, the Company's servants were also required to take the oath of a freeman.<sup>9</sup>

With the expansion of the Company's business, particularly the assumption of administrative responsibility, "Covenanted Servants" alone did not suffice for all its requirements. The Company, therefore, employed men outside the Covenanted Service for less important positions. The latter came to be known as "Uncovenanted Servants". The number of Uncovenanted Servants increased steadily with the growing need of maintaining office records, the tedious task of the Central Secretariat. As soon as the new arrivals from England picked up knowledge of their jobs they secured promotion and were

<sup>6</sup> Ghosal, A.K., *op. cit.*, p. 104.

<sup>7</sup> *Ibid.*, p. 238.

<sup>8</sup> Ghosal, *op. cit.*, has reproduced Covenants of different periods in Appendix B.

<sup>9</sup> *Ibid.*, p. 25.

transferred elsewhere, the vacancies thus created being filled by fresh arrivals. Because of this cycle, the Central Secretariat came in time to need the assistance of experienced, Uncovenanted clerks.<sup>10</sup> Thus developed the distinction between these two branches of service corresponding to the nature of responsibilities. The Covenanted Service became the preserve of Europeans, while the Uncovenanted Service was mostly staffed by Indians. Cornwallis' exclusive dependence on Europeans, however, necessitated the appointment of not only Covenanted European Servants to fill all the key and the superior positions in the administration but also the appointment of Uncovenanted European Writers to several of the important posts normally filled by other than European officers.

The fact that the Company's civil service comprised two branches drawn from two different areas, controlled largely by two different levels of hierarchy, dominated the scene of the Indian administration for more than a hundred years, until 1892. In order to stem the incursion of Uncovenanted Servants into positions previously held by Covenanted Servants, Parliament specifically provided in the Act of 1793 for the reservation of civil positions for members of the Covenanted Service. When men of superior ability entered the Uncovenanted Service, higher and more responsible duties were entrusted to them by slow degrees until the Government recognised the Uncovenanted Service as a regular branch of the civil service in the first half of the nineteenth century. With the growing admission of Uncovenanted officers into even more important positions in the executive and judicial branches, the division between the two services tended to be blurred. The distribution of offices between the two services was determined in each case by the appointing authority. But the Uncovenanted branch ceased to exist with the reorganisation of the services in 1892, in pursuance of the recommendations of the Public Service Commission, 1886-87 (Aitchison Commission).

Before 1858 the management of the civil service was vested in the Court of Directors of the East India Company, the seat of executive authority. It maintained its right of appointment to all civil and military posts in India, until the Company ceased

<sup>10</sup> Misra, B.B., *op. cit.*, p. 405.

to be the ruling organisation. The discretion of the Company's authorities in India in the matter of modifying without previous approval, the scales of remuneration fixed by the Directors, was severely limited. Time and again, Cornwallis and Wellesley challenged in vain, the power of nomination by the Directors to every office in the local Governments of India, and they regarded the manner in which the Directors exercised the power as "inexpedient and disgusting".<sup>11</sup> Although the power of appointment to all important offices in the service of the Company vested in the Directors, the distribution of these offices among the various settlements of the Company was lodged after 1757, with the authorities in India, as also the authority to promote and punish.<sup>12</sup> While it was the privilege of the Directors to nominate candidates for vacancies arising in the Covenanted Service, the local authorities in India enjoyed full discretion in the appointment of Uncovenanted Servants.<sup>13</sup>

## 2. SERVICES UNDER THE BRITISH CROWN

With the direct assumption of administration by the British Crown in 1858, the powers previously wielded both by the Court of Directors and by the Parliamentary Board of Control, passed to the British Crown acting through a Cabinet Minister known as the Secretary of State for India. The Secretary of State was assisted by a Council of fifteen members, eight appointed by the Crown, seven by the outgoing Directors. Persons who had resided in India or who had served the Crown in India and, as a rule, had not left India more than ten years

<sup>11</sup> Courts General Letter 10 Bengal, para 100, dated 25th March, 1757, Vol. 1, pp. 423-524. Cornwallis in his letter to Lord Sydney on January 7, 1788, regarded the constant solicitation of job-hunters with letters from the Directors and others as "madness". In his letter to the Right Honourable Henry Addington on January 10, 1802, Wellesley remarked that the Directors' power of nomination would reduce "the Governor on the spot...an useless cypher without power, authority or respect". (Vide Owen, S. G., A selection from the Despatches, Treatises and Other Papers of the Marquess Wellesley during his Governing of India, Oxford, p. 690).

<sup>12</sup> Bengal Despatches, Vol. I, para 98 of the Letter, p. 523.

<sup>13</sup> Misra, B. B., *op. cit.*, p. 404.

before appointment, were qualified for the membership of the Council. The members held office during good behaviour. Vacancies were filled by the Crown, and as regards the elected members, by the Council. The Secretary of State for India had the power of overriding his Council except in cases of appropriation of revenues or property, the issuing of securities for money contracts and alterations of salaries.<sup>14</sup> Although the composition and character of the Council changed from time to time, the position of the Secretary of the State in relation to management of the services remained, at least in theory, unchanged till the transfer of power in 1947.

Except for a shift in the location of the exercise of the executive power from the Court of Directors to the Secretary of State for India, no perceptible changes were witnessed in the principles and techniques of administration in the wake of the proclamation of 1858. Nor did the direct assumption of Government by the Crown make any great difference to the service in the matter of its rights and privileges. Nor did it affect its character. The racial complexion of two of its branches and the hardship caused by the London examinations continued for several years to come.

The years following the proclamation of 1858 however, constituted the period of consolidation of certain principles which obtained during the days of the East India Company. Some of these were valuable as they were the product of accumulated experiences; others, though sound in principle, had not received a chance of fair trial in point of time and precision. Outstanding among these were two: recruitment on the basis of an open competitive examination and Indianisation of the service. The progressive application of these principles greatly altered the composition and complexion of the civil service, resulting in the high standard, outstanding qualities and devotion to duty of its members and in the service emerging as one of the most remarkable administrative services in the history of the world. The preservation of these principles ultimately necessitated the creation of an independent institution, namely, the Public Service Commission.

<sup>14</sup> Keith, A.B., *A Constitutional History of India, 1600-1935*, Central Book Depot, Allahabad, pp. 164-166.

Likewise, the transfer of Government to the Crown gradually and almost imperceptibly resulted in a new approach towards service matters. This new approach gave civil servants a sense of greater security, fortified by the discontinuance of the periodical commissions of inquiry into the administration which had preceded the renewals of the Company's Charter.<sup>15</sup>

A reform of far-reaching effect on the structure of the service was the regionalisation of the services. This may be traced back to 1793. In that year, in its desire to restrict the exercise of patronage by the Directors and to stem the incursion of men from outside the Covenanted Service into positions hitherto held by the latter, Parliament provided that all vacancies occurring in civil offices must be filled by servants of the Company belonging to the Presidency where they occurred, a provision re-affirmed by the Charter Act of 1833. This led to the emergence of three sub-divisions of the Covenanted Service corresponding to the three Presidencies, viz., Bengal, Bombay and Madras. The service in each Presidency adopted its name as a designation, i.e., Bengal Civil Service, Bombay Civil Service, and Madras Civil Service ; collectively and officially however, they were known as "the Covenanted Civil Service of India". The members of each of these subdivisions of the service had separate pension funds. Because of practical administrative difficulties, the restriction of service to the limits of different Presidencies was abolished in 1878. It was in that year that Lord Salisbury, the then Secretary of State for India, acting on the suggestion of the Government of India directed that every Covenanted Civil Servant was "bound to serve wherever the Government, at any period of his career, requires him to go". The order of 1878 transformed the service into what is now called the "All-India Service".

However, the Aitchison Commission approved of the power of the Government to direct transfers on public grounds and to decide in what particular capacities and places its officers might be most usefully employed. It imposed two limitations in this regard : one restricted the base of the applicability of

<sup>15</sup> Cf. O' Malley, *op. cit.*, p. 86. The imminence of these commissions had always created some uneasiness among the service due to the possibility of changes affecting it.

the principle, and the other further limited the choice of employees in accepting or rejecting positions wherever they were transferred. The first of these was inherent in the arrangement proposed by the Commission for the constitution of two distinct services : the Imperial Service of India and the Provincial Service. The Imperial Service to which alone the principle would continue to apply, was to be the truncated form of the Covenanted Civil Service. Secondly, the members of the Imperial Civil Service were "bound to serve wheresoever and in whatsoever capacity the Government may see fit and should be eligible for any appointment for which the Government considers them gratified".

The idea of creating a closed civil service for Indians proposed by Lord Lytton's Government was accepted in 1879 with certain amendments by Lord Carnbrooke, the Secretary of State, with the avowed intention of affording "additional facilities for the employment of Indians of proved merit and ability in the Civil Service". The scheme created what was known as the Statutory Civil Service. Under the rules, a proportion not exceeding one-fifth of the persons appointed by the Secretary of State to the Indian Civil Service each year was to be Indians nominated by local Governments in India. There were two classes of Indians who could aspire to such appointments : persons already in government service and young men who combined good family and social position with fair abilities and education. Lord Lytton intended its status to be the same as that of the Covenanted Service of which it was considered a branch, but the pay was to be less. According to the findings of the Aitchison Commission, the Statutory Service "failed to fulfil the expectations anticipated from it, and that it is for sufficiently good reasons condemned, not only by particular sections of the Native community but also by the very large majority of officials, both European and Native, who have had practical experience of its working".<sup>16</sup> On the recommendations of the Commission, therefore, the Statutory Service was abolished.

Under the proposed arrangement of the Aitchison

<sup>16</sup> Report of the Aitchison Commission, Para 72 ; for its findings about the Statutory Civil Service, see Chapter III.

Commission, the Covenanted Civil Service which was reduced to "*a corps d' elite*" and which the Commission designated as the "Imperial Civil Service of India", was to continue to be recruited by open competition in England only, open unreservedly to Indians as well as to Europeans just as both of them were eligible for the "Provincial Service" subject to the prescribed preliminary conditions. The Commission also envisaged a third service comprising the lower administrative appointments above the lowest grades ; this is called, the "Subordinate Civil Service". The line of division was allowed to be drawn by each local Government according to certain principles indicated by the Commission.<sup>17</sup>

The Commission's suggestion that the title "Covenanted Civil Service" should be replaced by the term "Imperial Civil Service of India" was not accepted by the Secretary of State. He directed instead that the Covenanted Service be designated "the Civil Service of India" and the use of the terms "Covenanted" and "Uncovenanted" be entirely discontinued.<sup>18</sup>

In 1892, Provincial and Subordinate Civil Services were established by subdividing the existing Uncovenanted Service. To the Subordinate Civil Service were allotted the lower Uncovenanted posts of Tahsildar in the executive and of Munsif in the judicial branches. The higher Uncovenanted posts of Deputy Collector and sub-ordinate judge were to be filled by the members of the Provincial Service.

The Royal Commission on the Public Services, 1912-1915 (Islington Commission) recommended that the Imperial and Provincial Services should be amalgamated into a single service. The Islington Commission considered that the adoption of this recommendation would ensure the organisation of the services based on the work which they were required to do, and not on any artificial distinction. The Commission recommended that the services which lay between the higher and the subordinate services should no longer be designated "Provincial" services. If they were organised provincially they should ordinarily bear the name of the Province, for example, the Madras Civil Service, the Bombay Police Service, and so on. If they were under

<sup>17</sup> *Ibid.*, Chapters VII & VIII.

<sup>18</sup> O' Malley, *op. cit.*, p. 85.



the Government of India the terms Class I and Class II, should be used for the two services.<sup>19</sup> However, as the Governments both in India and in Britain were fully pre-occupied with the prosecution of the First World War, the consideration of the proposals of the Islington Commission was deferred and before the Report could be taken into consideration after the war, the facts on which it was based had materially changed.

However, in the light of the recommendations of the Islington Commission and its own investigation, the Government of India urged in its "First Despatch on Indian Constitutional Reforms" that special provisions were imperative to regularise the position of the civil services in India, for it was felt that they had developed in a somewhat haphazard manner, and the advent of control by the legislatures even in minor degree rendered it essential to remove all legal ambiguities. The First Despatch proposed, *inter alia*, the classification of the services. It constituted one of the bases for the detailed discussion from which the Government of India Act, 1919 finally emerged.<sup>20</sup>

In pursuance of the Government of India Act, 1919, the Secretary of State<sup>21</sup> passed rules in regard to services in India, except those employed in the administration of Central subjects. These were classified in the following divisions :

- (i) The All-India Services;
- (ii) the Provincial Services;
- (iii) the Subordinate Services; and
- (iv) officers holding special posts.

The All-India Services along with the higher classes of the Central Services constituted the superior civil services. The All-India Services worked primarily under the Provincial Governments. The term might at first sight, appear inappropriate to services which were essentially concerned with administration in the Provinces. It marked the fact, however, that these services were recruited by the Secretary of State for work in any part of India, and that each, though scattered

<sup>19</sup> Report of the Royal Commission on the Public Services, 1912-1915, (hereafter Islington Commission) paras, 24-26 & 30.

<sup>20</sup> Cf. *Ibid.*, paras 44-54.

<sup>21</sup> Report of the Lee Commission reproduced the rules under Section 96 B (2) of the Government of India Act, in one of its appendices, p. 84.

through the Provinces, formed one service with one basis of remuneration. Though an officer of an All-India Service was assigned to end, as a rule, remained in one Province throughout his career, he might be transferred to another Province. Furthermore, a certain number of officers were taken by the Government of India from the Provinces to assist in the discharge of Central functions.

The Subordinate Services consisted of all minor administrative, executive, and ministerial posts to which appointments were made by the local Government or by an authority subordinate to the local Government.<sup>22</sup>

Special posts included all posts of a special or technical character, not included in an All-India or Provincial Service, to which appointments were made by the local Government or by any other body authorised by the local Government and were declared by the local Government to be special posts.<sup>23</sup>

The Central Services dealt, *inter alia*, with the Indian States and frontier affairs, the administration of the State Railways, Posts and Telegraphs, Customs, Audit and Accounts, and Scientific or Technical Departments such as the Survey of India, the Geological Survey and the Archaeological Department.

The Government of India Act, 1935 brought about changes of far-reaching consequences in the service structure. First, it provided elaborate safeguards to protect the public services from political influences arising out of the proposed constitutional changes both in the Provinces and at the Centre. Under the Government of India Act, 1919 the Secretary of State in Council was the sole repository of authority to control the civil services in India, although he could delegate his authority to the ruling bodies in India. Under the Government of India Act, 1935, the actual controlling authority was dispersed. Broadly speaking, on the basis of its location there were three types of classes of services: (i) services of the Federation under the control of the Governor-General in matters of appointment and conditions of service of persons serving in the

<sup>22</sup> *Ibid.*, Rules under Section 96 B(2) of the Government of India Act, 1919, pp. 85-86.

<sup>23</sup> *Ibid.*

Federation ; (ii) services in a Province under the control of the Governor ; and (iii) All-India Services and reserved posts under the control of the Secretary of State.

The trifurcation of the controlling authority has resulted in the classification of services. This classification was based on differences in privileges, in respect of disciplinary action, right of appeal, etc., and it intensified the feeling of "class consciousness" which was an outcome of the Classification Rules formulated under the Government of India Act, 1919.

Before the acceptance of the recommendations of the Central Pay Commission, 1946-47 (Varadachariar Commission) the Central Services were broadly grouped into four categories : Class I, Class II, Subordinate and Inferior Services. This classification suggested by the Islington Commission, seems to have come into vogue in or about 1926.<sup>24</sup> Class I comprised certain enumerated posts of high rank and each cadre of Class I service had a corresponding Class II service. The main distinction between the two classes was that all first appointments to Class I were made by the Governor-General-in-Council, while in respect of Class II, a lower authority was authorised to make the appointment. Class I and Class II officers, however, generally enjoyed "gazetted" status. "Subordinate Services" comprised posts carrying clerical, ministerial executive or out-door duties, whose incumbents did not enjoy gazetted status. "Inferior Services" consisted of posts whose maximum pay did not exceed Rs. 30/- and posts which were not classified as superior.<sup>25</sup>

Since the description "Subordinate" and "Inferior" Services was objected to by the witnesses as derogatory, the Varadachariar Commission approved a suggestion that these categories might be described numerically by calling them Class III and Class IV respectively. Further, it recommended that the top limit of the pay of Class IV services should be raised to Rs. 60/-.<sup>26</sup>

The Commission gave careful thought to a suggestion for

<sup>24</sup> Report of the Central Pay Commission, 1946-47, the Manager, Government of India Press, New Delhi, 1950, para 10,

<sup>25</sup> *Ibid.*, para 19.

<sup>26</sup> *Ibid.*, para 21.

the adoption of the British Classification into "administrative", "executive" and "clerical". It ultimately turned it down on two grounds : First, the British recruitment system on which the British Classification was based, was articulated with the educational system. The Indian system did not correspond to its British counterpart. Secondly, it was not possible in many cases to say whether a particular office in India was "administrative" or "executive", as many officers discharge duties of both kinds. The Commission also dismissed any suggestion for importing a novel nomenclature unless the advantage was clear.<sup>27</sup>

The Commission also considered the suggestion that Class II might be amalgamated with Class I. The inclination of the majority of Members of the Commission was that it was desirable to retain the two classes. It was aware, however, that there were Departments where the differentiation was not necessary or possible because of the difficulty of distinguishing between the importance and responsibility of the duties respectively performed by these two classes. In such cases the Commission recommended that the twofold classification might be dispensed with and the two groups might be treated as one gazetted service.<sup>28</sup>

### 3. SERVICES SINCE INDEPENDENCE

On the attainment of Independence, the structure of the services has been, by and large, left undisturbed. The services continue to be divided into three major categories, viz., (i) Central Services, (ii) State Services (formerly Provincial Services) ; and (iii) All-India Services.

The services and posts under the Central Government are grouped into four classes, namely, Class I, Class II, Class III and Class IV. The lines of division run horizontally across the service, resulting in a grouping of services and posts on a non-departmental and non-occupational basis. Class I and most of Class II services which are gazetted, constitute the higher services and the subordinate non-gazetted are made up of a few

<sup>27</sup> *Ibid.*, paras 21-22.

<sup>28</sup> *Ibid.*, paras 28-29.

Class II, and the whole of Class III and Class IV services.<sup>29</sup>

The higher services can be grouped into three broad categories. The first group is of the All-India Services, viz., the Indian Administrative Service, the Indian Police Service, etc., which are recruited through the Union Public Service Commission and given two years' general training but allotted to the States where the bulk of them continue to work until retirement. The State Governments pay their salaries and arrange for their in-service training and subsequent postings and transfers at all stages, except when they are lent on deputation to the Centre for work in the Government of India Secretariat or in its field posts. The Central Government has laid down, through statutory regulations, their pay and conditions of service. Disciplinary action against them is taken after consultation with the Union Public Service Commission. The All-India Services, which constitute a distinctive element of the Indian public service, are greatly valued today as the instrument for ensuring national integration.

The second group of services consists of the Central Services—functional and technical. These are the Indian Foreign Service, the Central Secretariat Services, the Audit and Accounts Service, the Defence Accounts Service, the Railway Accounts Service, the Indian Revenue Service (made up of the Income-Tax Service, the Customs Service and the Central Excise Service), the Postal Service and the Military Lands and Cantonments Service. The States also have corresponding services, including the State Civil and Police Registration, Judicial, Jail, Education Services, etc. The Industrial Management Pool of the Government of India which includes separate posts—not included in organised services—can also be placed in this group of services.

On a par with this group stand the technical, scientific, professional and specialist services, such as the engineering cadres in the various branches, civil, electrical, telegraphic, railway, stores and supplies, radio, medical and health services, agriculture, veterinary ; fisheries, forests, survey of India, education, etc.

<sup>29</sup> The State Services are also grouped numerically except in Madras. The State of Kerala only has five classes of State Service.

So far as the State Civil Services are concerned, the Chief Secretary is generally their head. In Bombay, Madras, West Bengal and Madhya Pradesh, he is however, one of the senior-most officers. In some of the other States, like Punjab and Uttar Pradesh, he is not always one of the senior-most officers, as there is, outside the Secretariat, a Financial Commissioner or Senior Member of the Board of Revenue who has greater official prestige and whose views are always invited on important matters affecting the general administration.

The years following the publication of the Report of the Varadachariar Commission marked the trend "towards constituting wherever practicable regular services by encadring similar posts in one of several Departments. Examples are the various Central Secretariat Services, the Central Health Service, the Central Legal Service, the Central Information Service, the Indian Economic Service and the Indian Statistical Service. The object is to facilitate planned recruitment, orderly management and mobility ; and to provide well-defined career prospects".<sup>30</sup>

As regards the basis of classification of services, the main considerations are the rate of pay and conditions of service. With the progressive liberalization of the conditions of service of the lower classes, the differences in regard to leave, retirement benefits, etc., have been minimised. In respect of the location of authority for recruitment, appointment and disciplinary action, differences still exist.

The Commission of Enquiry on Emoluments and Conditions of Service of Central Government Employees, 1957-59 (the Second Pay Commission) opined that the present system of classification nomenclature served no definite practical use. "On the other hand, it has an unhealthy psychological effect". The Commission did not "think any serious inconvenience will be caused to the Administration in India if the classification under consideration is given up". It not only recommended the abolition of the present classification but it also regarded as undesirable "the practice of mentioning, in official correspondence,

<sup>30</sup> Report of Commission on Enquiry on Emoluments and Conditions of Service of Central Government Employees, 1957-59, Chapter III, para 7.

orders, etc., the name, in an abbreviated form, of the service to which the officer belongs".<sup>31</sup> While the recommendation in regard to the abolition of the present classification did not find favour with the Government of India, necessary orders were issued prohibiting the practice of mentioning in official correspondence the name of the service to which the officers belong.

The transfer of power in 1947 marks a turning point in the history of the relations between the public services and the Executive and the Legislature. The Executive is no longer the sole repository of service controlling authority. The services at the Centre are under the remote constitutional control of Parliament. The executive power, including the Supreme Command of the defence forces, is vested in the President. While Parliament passed an All-India Services Act, no such Act has been contemplated with reference to the Central Services. Thus the rules and regulations that are being made by the Union Government to regulate the recruitment and the conditions of the Central Services have no formal basis of parliamentary enactment. The less remote and closer direction of the administration is in the hands of the Prime Minister and the Council of Ministers at the Centre, and in the hands of Chief Ministers and their respective Councils of Ministers in the States.

The Prime Minister is assisted by the Appointments Committee of the Cabinet in filling the most responsible posts at the Centre and for resolving difficulties with the Union Public Service Commission. The actual control and management of the services at the Centre are distributed between the Union Public Service Commission, and the Ministries of Home Affairs and Finance for the higher posts, while these matters are in the hands of the respective Ministers so far as the non-gazetted and lower posts are concerned subject to the Home Ministry's guidance. The Cabinet Secretary at the Centre, however, has very little to do with personnel administration, his work being mainly confined to the Appointments Committee of the Cabinet. In the States, the Chief Secretary being in charge of the

<sup>31</sup> *Ibid.*, Chapter III, para 4, pp. 561-562.

general administration and establishments, is responsible for the management of the public services, subject to consultation with the Finance Department and the independent advice of the State Public Service Commission.

Under the Constitution, a citizen of India is eligible for employment to any office under any Government. As some States had domicile restrictions which could no longer be justified after the States Reorganisation Act, 1956, and the abolition of the A, B and C stratification of States, an Act was passed in 1957, removing all domicile restrictions except in some specific cases. Local pressures, however, are still exercised indirectly ; for example, by prescribing language examinations at certain stages. In so far as the public undertakings are concerned, the Central Government has also yielded in regard to the lower categories of posts. The labour force and factory workers and clerical and administrative staff in posts carrying less than Rs. 350/- p.m. can still be recruited by local preference.

The historic implications of the transfer of power have changed the character of the public service. With the transformation of the State, there has been a shift in emphasis from law-and-order to social objectives. But no corresponding structural changes have taken place in the character of the public service, although the case for its reorganisation, taking into account the democratic set-up, merits consideration.



## CHAPTER II

### FROM PATRONAGE TO MERIT SYSTEM

The preceding chapter was intended to be a general outline of the way the modern public service has developed in India, tracing the emergence of the existing personnel agencies which include the Union Public Service Commission (U.P.S.C.). This chapter will examine the conditions prevailing prior to the extension of the jurisdiction of the British Civil Service to the Indian public service in 1858 and the organisation, functions and working of the Public Service Commissions (including the British Civil Service Commission) which existed before the advent of the U.P.S.C. From the standpoint of background to the study of the U.P.S.C., two of the principal stages of the evolution of the public service deserve special mention. Prior to 1858, no independent and statutory service agency existed to assist the Executive in the management of services. But since that year one or more Public Service Commissions have been associated with the public service.

#### 1. PATRONAGE UNDER THE EAST INDIA COMPANY

It was a maxim laid down as early as 1714 in regard to the employment of European officers in the Covenanted Service, that the recruitment of young men would not be made in India, but would rest with the authorities in England.<sup>1</sup> Before 1714 the Court of Directors recruited candidates for the Covenanted Service upon their own petition of request. It was in that year (when employment under the Company was very much in demand) that it was "resolved that for any employment whatever in this Company's service, the petitioner be recommended by one or more members of this Court; and that his or their names who do so recommend be mentioned in the Minutes of the Court". This principle, reaffirmed in 1731, far from ensuring

<sup>1</sup> Para 25 of the General Letter to Bengal, 29th March, 1774, Bengal Despatcher, Vol. VII, p. 61, I.O.R.

honesty and integrity in the choice of the recruits, was looked upon as an important privilege of the Directors.<sup>2</sup>

The Company clung to its much valued power of patronage to the very end, although the method of its selection of employees varied from time to time : (i) unregulated patronage from 1714-1806 ; (ii) the training of nominees in the Haileybury College from 1806 to 1833 and from 1837 to 1855 ; and (iii) limited competition amongst nominees of the Directors from 1833-1837. Unregulated patronage in recruitment to the civil service continued until the beginning of the nineteenth century, when nomination was made for admission to Haileybury College, from which Writers were thereafter appointed. The Charter Act of 1813 made it unlawful for Directors to send Writers to India who had not undergone a preliminary residence for four terms at Haileybury. The Charter Act of 1833 limited still further the manner in which the Directors might exercise their patronage. Under the Act (the postponement of its practical application was secured by the Directors in 1837, through fresh legislation) four candidates were to be nominated against every vacancy, and the best selected by means of an examination.<sup>3</sup> Finally, the Charter Act of 1853 deprived the Directors of their patronage altogether, and the service was thrown open to public competition of all British subjects, without distinction of race.

Originally, no restrictions were placed on candidature. In 1682 it was decided in future none should be appointed Writers "but such as have learned the method of keeping merchants' accounts throughout".<sup>4</sup> The candidate had to write out his petition in his own handwriting and submit it along with evidence of age and testimonials about his qualifications. The reason for this lack of any systematic education and training of the Company's servants is to be traced mainly to the character

<sup>2</sup> In the distribution of patronage, the Chairman and Deputy Chairman always had a larger share than ordinary Directors. The proportion varied from time to time. Later on, the Board of Control also came in for a share. For a detailed discussion of the service conditions see Ghosal, *op. cit.*

<sup>3</sup> The method of limited competition was expounded by Lord Macaulay as Secretary of the Board of Control.

<sup>4</sup> Ghosal, *op. cit.*, p. 22.

of the Company as a purely mercantile organisation. Towards the middle of the eighteenth century an institution in London named Christ's Hospital, which largely imparted training of a commercial character, very often supplied recruits for the Company's service.<sup>5</sup> The only qualifications were a smattering of book-keeping and accountancy and good handwriting.<sup>6</sup> The authorities in India, however, provided facilities for European officers to learn the vernaculars by employing Indian coaches for this purpose.

With the consolidation of the Company as a stable ruling organisation towards the close of the eighteenth century, the administration was confronted with the problem of equipping personnel for their very arduous and responsible duties ; this was partly because the recruits were sent out at a very early age.

It was Wellesley who for the first time, visualised the necessity of ensuring that civil servants had proper qualifications. These qualifications did not necessarily follow from the then existing mode of selection, viz., that of unregulated patronage in the hands of the Directors. He was aware that the abolition of the deep-rooted practice of nominations to Writerships by the Directors was out of question, especially when a Ministry had been overthrown on that score.<sup>7</sup> In the circumstances Wellesley took the next best alternative, namely, to impart systematic training to the Writers after their nomination and before they actually entered upon their duties.<sup>8</sup> Underlying his scheme were two sound maxims : first, the Company's servants were to undergo a mixed course of instruction combining Western and Oriental studies ; and secondly, the servants were to be subjected for a period of two or three years to the rules and discipline of some collegiate instruction at the seat

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<sup>5</sup> Foster, Sir William, John Company, 1926.

<sup>6</sup> A Court of Committees, October 24, 1677, Court Book, Vol. XXX, p. 370 quoted in Calendar of Court Minutes, 1677-79, Introduction p. xxi.

<sup>7</sup> The Coalition Ministry of Fox and North fell on that issue.

<sup>8</sup> Ghosal, *op. cit.*, p. 243.

of Government.<sup>9</sup> The Fort William College at Calcutta which was set up on November 24, 1800, for this purpose, functioned till 1854, although with the establishment of the Haileybury College in 1806, the Fort William College continued with a very much reduced establishment, imparting instruction to the Bengal Civil Service in the Indian languages.<sup>10</sup> Separate arrangements were permitted in the Presidencies of Madras and Bombay.

Wellesley's scheme of education sharpened the awareness of the need of some form of higher education for public servants. With this in view a college was founded by the Directors at Haileybury in 1806. As mentioned earlier, the institution was given statutory status in 1813, by inserting a clause in the Act of that year that it would be unlawful for Directors to send Writers to India who had not undergone a preliminary residence of four terms at Haileybury. Although this condition was subsequently modified, its insertion was a recognition of the value of the training which the College provided.

The curriculum comprised three branches. The European branch of study was designed to impart to the students the benefits of liberal and enlightened education. It included Mathematics and Natural Philosophy, Classics and General Literature, History and Political Economy, General Policy and Laws of England, Humanity and Philology and provided for the teaching of French, Drawing and Dancing. The second branch of the curriculum, included as a matter of political and administrative necessity, provided for the study of Oriental languages, literature and history. A third feature of the curriculum was its emphasis on the teaching of religion and morality. This branch of study stressed self-discipline and active zeal.

In deciding not to send out Writers to India at the age of fifteen, the Directors were guided by a practical consideration. It was believed that up to the age of at least eighteen, young

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<sup>9</sup> Martin, R. M. Despatches, Minutes and Correspondence of Marquess of Wellesley during his Administration in India, 1836, Vol. II, Letter 39; Oct. 29, 1799.

<sup>10</sup> For a comprehensive study of the origin of the Fort William College and courses thereof, see Ghosal, *op. cit.*, pp. 236-288; for the contribution of the College to literature, see Misra, *op. cit.*, pp. 394-397.

men should be required to complete a course of education at the Haileybury College and then to spend a year or two afterwards in preparatory studies in India, before finally entering service. In the course of this training, they would be able to attain a degree of maturity in thought and habit.

On completing the course in the College and having the requisite certificate from the Principal, the students were not, however, automatically entitled to appointment as Writers, unless the Court of Directors, in their discretion, should deem fit.

From the early period of the Company's service the qualifications of individual nominees were examined. The candidates had to appear before the Court itself. The Court put questions on the candidate's personal aptitude and previous experience, manual exercise and terms of service. Under a regulation of the General Court of July 6, 1809, and affirmed by another on December 19, 1810, the interrogation of candidates became a regular and established rule. It was held before the open committee of the College, and success at the *viva voce* test was a prior condition to admission to the College. Thus the regular practice of interrogation, though self-imposed, operated as an effective check on the exercise of patronage by individual Directors.<sup>11</sup>

The Haileybury College was the only regular source of supply of senior civil servants for the Company for a half century, i.e., from 1806 till 1855. But from 1826 to 1834 the London Board of Examiners operated as an alternative source of supply. This was an emergency measure to meet the great shortage of men in the Covenanted Service consequent on the growing responsibilities of the administrative machinery in the wake of expansion of the territories of the Company in India in the 1820's.<sup>12</sup>

At the Parliamentary enquiries held before the renewal of the Company's Charter in 1833 and 1853, evidence as to how far the Haileybury College was successful in its mission was of a conflicting nature. Some held that it bred an *esprit de corps*,

<sup>11</sup> Misra, *op. cit.*, pp. 411-412.

<sup>12</sup> War from 1824-26 brought cession of Arakan, Assam, Cachar, Manipur, etc., cf. Keith, A.B., A Constitutional History of India, 1600-1935, *op. cit.*, p. 119.

combining with it the spirit of emulation noticeable in the Universities of Oxford and Cambridge. Others disparaged the institution as being narrow and exclusive, as imparting an education not liberal in character. There was a good case for an institution of this type at the time it was established ; later on, when subjects of special interest were introduced in several other Schools and Universities of Britain, the case for continuing the institution was not so strong. As a witness observed, it failed to act as a safe check on the indiscriminate exercise of patronage. So long as admission to the College was not free and open, patronage was bound to continue.

## 2. THE STRUGGLE FOR THE MERIT SYSTEM

The Board of Control often clashed with the Court of Directors in an effort to improve the quality of the Company's service. It found in Macaulay a great advocate of the principle of competition. "It is said, I know" he told the House of Commons on July 10, 1833, "that examinations in Latin, in Greek, and in Mathematics are no tests of what men will prove to be in life. I am perfectly aware that they are not infallible tests; but that they are tests I confidently maintain. Look at every walk of life—at this House—at the other House—and see whether it be not true, that those who attain high distinction in the world are generally men who were distinguished in their academic career. Whatever be the languages—whatever be the science, which it is, in any age or country the fashion to teach, those who become the greatest proficient in those languages, and those sciences, will generally be the flower of youth—the most acute—the most industrious—the most ambitious of honourable distinctions."

The Act of 1833 embodied Macaulay's idea by accepting the principle of "limited competition." Under this scheme the vacancies at the College were to be filled by the Directors on the basis of the requirements of the service in India, estimated and reported to them by the Governor-General-in-Council. The Directors were to nominate four times as many candidates for admission as there might be vacancies in service, and one-fourth of this number was to be selected for admission by

an examination. The final examination of the College was only to determine the relative situations of those successfully going out. The Act, extending the base of recruitment and restricting the exercise of patronage, operated hardly for a year, although suspension was formally provided through another Act in 1837. On June 23, 1853, Macaulay reiterated his views regarding the system of competition as follows : "It seems to me there never was a fact proved by a large mass of evidence or a more unvaried experience than this : that men who distinguish themselves in their youth above their contemporaries almost always keep to the end of their lives the start which they have gained."

Despite all sorts of objections of the Directors to the proposed reform, the Board of Control maintained that in view of the changed character of the Company—a quasi-public body instead of a mere commercial corporation as before—the selection of servants could no longer be allowed to be a matter of private patronage. In the controversy over the two principles, the competitive principle at last won the day. Parliament passed the Charter Act of 1853 depriving the Directors of their patronage altogether and directed that in future the Indian civil servants should be selected through competitive examination, open to British subjects generally. The recommendations of a committee, appointed to report upon the recruitment of the Indian civil service and headed by Macaulay, were accepted in their entirety. Two years after the acceptance of the principle, it was decided to abolish the Haileybury College.

### 3. THE BRITISH CIVIL SERVICE COMMISSION (1858-1947)

Thus the year 1855 marks in a sense, the end of one phase in the development of the public service in India. Selection by competitive examination, introduced in that year as a substitute for the patronage of the Directors of the East India Company, has continued as the most consistent method of entry into the Indian public service. The experience so gained in the field of recruitment to the Indian administrative service, together with the reforms in the British Universities in regard to the introduction of effective systems of examination "which

made merit rather than influence the determinant in the distribution of awards,"<sup>13</sup> produced men who played a vital part in preparing the schemes for the extension of the principle of competitive examination to the British Civil Service.

Although the Act of 1853 introduced the principle of competitive examination for recruitment to the Indian civil service, it was in 1858 that the Government of India Act provided the first statutory basis for a regular recruiting agency. The arrangement envisaged by the Act, remained in force virtually *in toto*, until 1947; and, the pattern of the recruiting agency has, by and large, continued up-to-date.

The Act imposed upon the Secretary of State-in-Council, acting with the advice and assistance of Her Majesty's Civil Service Commissioners in England, the duty of making Regulations in regard to (i) the conditions and qualifications for admitting those who might be desirous of becoming candidates for appointment to the civil service of India; (ii) the prescription of the branches of knowledge in which such candidates were to be examined; (iii) the regulation and conduct of such examinations under the superintendence of the Commissioners; and, (iv) other tests of fitness in relation to appointments to junior situations in the service in India.<sup>14</sup>

All such regulations were to be laid before Parliament within fourteen days after issue if Parliament was sitting, and if Parliament was not sitting within fourteen days of the commencement of the next session.

The Act regulated both the manner of recruitment by the Commissioners and the authority of the Secretary of State in accepting the candidates certified by the Commissioners. Thus the candidates who might be certified by the Civil Service Commissioners were to "be recommended for appointment according to the order of their proficiency as shown by such examinations". Similarly, only persons so certified were "appointed to the Civil Service of India by the Secretary of

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<sup>13</sup> Cohen, W.E., the Growth of the British Civil Service, 1780-1939, *op. cit.*, p. 82.

<sup>14</sup> Mukherji, P., Indian Constitutional Documents, 1600-1918, Vol. I, Thacker, Spink & Co., Calcutta and Simla, 1918, pp. 141.



State-in-Council",<sup>15</sup> thus leaving very little discretion with the Secretary of State in departing from the recommendations of the Commissioners in the matter.

The Civil Service Commission which was vested with statutory duties in relation to the Indian public service, was the creation of an Order-in-Council of May 21, 1855. The Order was the immediate sequel to the publication of the Trevelyan-Northcote Report in February, 1854, which marked a turning-point in the history of the British Civil Service. Under the Order, the Civil Service Commission was to consist of three Commissioners; but the number of Commissioners has varied. Originally, the Commissioners gave part of their time to the work of the Commission, as they also held other public offices.

The Commissioners are appointed by Her Majesty-in-Council through an Order-in-Council. "This method of appointment is unusual and gives a certain dignity to the office..."<sup>16</sup> The Commissioners hold office during Her Majesty's pleasure. Thus they have no formal guarantee of independence or security of tenure, as have for instance, Judges of the High Court, or the Comptroller and Auditor-General. The Commission ranks as an independent Department, not controlled by a Minister, and it is housed in Burlington Gardens, as if to mark its separation from Whitehall. But its expenditure is borne on the Annual Estimates which must have the approval of the Treasury, and the Commissioners and their staff are career civil servants subject to ordinary civil service conditions.<sup>17</sup> Apart from gross misconduct, they are less easily removable than normal civil servants.<sup>18</sup>

<sup>15</sup> Mukherji, P., Indian Constitutional Documents *op. cit.*, pp. 141-142.

<sup>16</sup> Mackenzie, W.G.M., and Grove, J.W., Central Administration in Britain, Longmans, Green & Co., London, 1957, p. 38.

<sup>17</sup> *Ibid.*, pp. 38-39.

<sup>18</sup> "Public Administration", Journal of the Royal Institute of Public Administration, Vol. XXXI, Autumn 1953, London, p. 201. Sir A.P. Sinker, (the First Civil Service Commissioner in 1952), "What are Public Service Commissions for?" holds: "In any case the real strength of the Commissioners' position of independence is that there is a tacit and unwritten agreement between political parties re-inforced by strong parliamentary and public opinion, that the Commissioners

The first Commissioner, who presides over the hierarchical organisation of the Commission, is in a position of some independence, for it is usual to appoint a civil servant who has had experience of establishment work and the appointment is seldom a stepping-stone to further promotion.<sup>19</sup>

Until 1854, all appointments to the civil service in the United Kingdom as in India owed something to patronage. The services in the U.K. and India, however, might be distinguished in regard to the base of recruitment and the exercise of patronage. Recruitment to the Indian civil service was restricted to those admitted to the Haileybury College, while there was no such regulated channel for recruitment to the Home Civil Service. The exercise of patronage, so far as the India civil service was concerned, was confined to the ruling nucleus in England and India, the patronage in the U.K., being exercised by a comparatively larger number of persons including Ministers, M.Ps. and the departmental authorities. Finally, those who were sent to India were to shoulder administrative responsibility of wider scope, just as they were better equipped for the job than their counterparts in their home country.

The establishment of the Civil Service Commission for recruitment to the Home Civil Service in 1855, and extension of its jurisdiction to the Indian civil service in 1858, brought about revolutionary changes in the recruiting arrangements for these two services. The Superannuation Act of 1859 strengthened significantly the position of the Civil Service Commissioners in relation to the British Civil Service by minimizing the possibility of an increase in the number of cases in which Government may seek to depart from the advice of the Commission. It directs that superannuation should only be granted to those who hold the Commissioners' certificate, unless they hold their appointment directly from the Crown. Thus it has indirectly made the Commissioners responsible for the initial selection of all persons appointed for the first time to the permanent posts. As the application of the provisions of the Act was not extended to the services in India, the system of recruitment should be left to exercise their functions in an independent and impartial manner".

<sup>19</sup> Cf. Mackenzie, W.G.M., and Grove, J.W., *op. cit.*

ment to the Indian civil service evolved on different lines. Consequently, the Public Service Commissions created subsequently in India, one after another, could never acquire the position of the British Civil Service Commission in its relation to the services, as the sole recruiting agency in the country. The Executive, both before and after Independence, has been competent to exclude any class of posts generally, or any isolated posts from the purview of the Commission and could have separate recruiting arrangements for the excluded posts. Accordingly, the Indian Public Service Commissions have constituted a new pattern of Service Commission.

Recruitment to the Indian civil service was conducted until the outbreak of the First World War, through written competitive examination only. The interview as an integral part of the competition was introduced after the First World War. The examination was in two parts, with a year's interval between them. Those who topped the test in the first part, were selected as probationers, and had to take a further examination during their probationary period.<sup>20</sup> The first part consisted of papers in the English Language and Literature, English Composition, History, the Languages and Literature of Greece, Rome, France, Germany, and Italy, Mathematics, Natural Sciences, Moral Sciences, and Sanskrit and Arabic Languages and Literature. It included also a *viva voce* test. In the second part, the stress was on the vernacular languages of India and the elements of Hindu and Mohamman Law and the Criminal Law of India and Indian History.

#### 4. THE STAFF SELECTION BOARD (1922-1926)

The *grand corps* of the British administration in India was called the 'Covenanted Service', the 'Imperial Service', and the 'Indian Civil Service' (I.C.S.) in chronological sequence. Its members were assured of the most important posts. Matters relating of their recruitment and training engaged the serious attention of the government. Thus the highest posts of administration were filled by a systematic method of recruitment. There was, however, no proper arrangement for recruitment of

<sup>20</sup> Cf. *ibid.*

the rest of the classes of the public service until a few years after the First World War. On the contrary, as referred to earlier, the British Civil Service Commission, fortified by civil service Acts and Orders-in-Council gradually emerged as the sole recruiting agency for the whole service in the United Kingdom. No similar development took place in relation to the public service in India, although the British Civil Service could have been consulted in regard to tests of fitness in relation to appointments to junior positions in the service in India.<sup>21</sup> Consequently, the clerical posts were filled by direct recruitment made by individual departments acting independently; Superintendents, Registrars and Assistant Secretaries were appointed by promotion on a departmental basis.

This arrangement for recruitment was abandoned on the recommendation of the Lewellyn Smith Committee, 1919, and a central recruiting body was instituted, called the Staff Selection Board for the lower services. The Board was in essence a Public Service Commission though at a lower level.

The Staff Selection Board consisted of a Chairman, three Members and a Secretary.<sup>22</sup> Of the three Members, two were Indians. The Members were appointed for one year but were eligible for re-employment. It was stipulated in the Constitution of the Staff Selection Board that if a Civil Service Commission was eventually established in India pursuant to the Government of India Act, 1919, the Chairman of the Commission should be the Chairman of the Board who, in that event, should hold office for five years. Pending the establishment of the Civil Service Commission in India, the Viceroy nominated an interim Chairman.

The Board did not have direct access to the Government of India. It dealt with the Departments of Government through the Home Department. The pattern of relationship between the Board and the Home Department of the Central Government (which was in charge of service matters) thus emerged,

<sup>21</sup> Mukherji, P., *op. cit.*, p. 141.

<sup>22</sup> A copy of the Constitution and functions of the Staff Selection Board is in an enclosure to the letter No. 128/5, dated 8th February, 1922 from the Secretary, Staff Selection Board to the Secretary to the Home Department, Record File No. 47 of 1922.

providing by and large, a model for the succeeding Public Service Commissions. This pattern of relationship with the services and the Commission has been largely maintained since then.

Although the area of jurisdiction of the Board was defined, it was subject to modification under certain conditions. The Board recruited staff for the Secretariat and Attached Offices of the Government of India, and such other offices as might elect to come under the Board. Army Headquarters had, for example, so elected. The Board could extend its supervision to the recruitment of the clerical staff of the Provincial Government Secretariat, if the latter so chose.

The Foreign and Political Department which employed a large proportion of Europeans out of political necessity, recruited independently when the Board could not provide a suitable candidate. If it became necessary to bring into the Secretariat men of special experience in Secretariat work, or with special qualifications, at stages other than the lowest, such appointments required the approval of the Board.

A unique feature of the functions of the Board was that in preparing a list of approved candidates qualified for appointment, care was taken that as far as the number of qualified candidates allowed, the main sections of the community, viz., Hindus, Muslims, Europeans and Anglo-Indians were adequately represented.

The Board was primarily a recruiting agency. It held written and *viva voce* examinations for recruitment to the posts of Assistant Secretaries, Assistants, Clerks, Stenographers and Typists.

The Board regulated its own procedure and fixed the educational and other qualifications required for all candidates and the evidence to be produced with regard to such qualifications. It was authorised at its discretion to modify the educational qualifications prescribed for new entrants and to dispense with all or part of any special qualifying examination. But it invariably insisted upon a personal interview.

Unless the Board otherwise consented, no outsider could be appointed to a post, whether on a temporary or permanent basis, until and unless he had been nominated for the appoint-

by the Board. No temporary Assistant or clerk could be confirmed in a permanent post, until he was declared qualified for permanent employment by the Board.

'Promotion' was another important service matter with which the Board was concerned. In order to qualify for promotion from the Lower to the Upper Division Clerk of an office the candidates had to appear before the Board. All proposed permanent promotions from the clerical staff to the post of Assistant Secretary or higher post, had to be submitted for confirmation to the Board which might require any evidence it thought necessary of the aspirant's capacity to fill the post.

As was anticipated at the time of its inception, the functions of the Board were taken over by the Public Service Commission which was established in 1926.<sup>23</sup> It may be noted that like the British Civil Service Commission, the Staff Selection Board did play a pioneer role in its own field. The succeeding Public Service Commissions, however, seem to be closer to the Staff Selection Board than to the British Civil Service Commission in their functions and their relations to the staff controlling agency, viz., the Ministry of Home Affairs.

##### 5. THE PUBLIC SERVICE COMMISSION (1926-1937)

The origin of the Public Service Commission may be traced to paragraph 55 of the First Despatch of the Government of India on Indian Constitutional Reforms of March 5, 1919 :

"In most of the Dominions where responsible government has been established, the need has been felt of protecting the public service from political influences by the establishment of some permanent office peculiarly charged with the regulation of service matters. We are not prepared at present to develop the case fully for the establishment in India of a public service commission ; but we feel that the prospect that the services may come more and more under ministerial control does afford strong grounds for instituting such a body. Accordingly, we think that provision should be made for its institution in the new Bill. The Commission should be appointed

<sup>23</sup> Cf. Proceedings of the Public Service Commission for the year, 1926-27, Vol. I, 2nd Meeting—8th October, 1926.

by the Secretary of State, and its powers and duties regulated by statutory rules to be framed by the same authority".

This concept of a Public Service Commission found more or less concrete shape in the Government of India Act, 1919. Thus Selection 96(c) of the Act provided for the establishment in India of a Public Service Commission which was to "discharge in regard to recruitment and control of public services in India such functions as may be assigned thereto by rules made by the Secretary of State in Council".

Further, the institution of the Public Service Commission on the soil of India with a view to recruiting Indians to the public service was a part of "the declared policy of the Parliament to provide for the increasing association of Indians in every branch of Indian Administration, and for gradual development of self-governing institutions".<sup>24</sup>

It is plain that the framers of the Despatch and the authors of the Act contemplated a Commission which was to be a creation of the Chief Executive (the Secretary of State for India) who would regulate its functions. It was also an essential safeguard in the working of the reforms, serving as a check on certain undesirable features likely to accompany the reforms. Thus the Public Service Commission was intended to assume the role of a central personnel agency. It was to be close to the Secretary of State, dependent upon his plans and wishes and so to regulate service matters as to give it "that position of stability and security which is vital to its successful working as the impartial and efficient instrument by which Governments, of whatever political complexion, may give effect to their policies"<sup>25</sup>

As no decision was arrived at even after prolonged correspondence extending over nearly four years between the Secretary of State, the Government of India, and local Governments, regarding the functions and machinery of the proposed Public Service Commission, the question was referred to the Lee Commission. The Lee Commission regarded its recommendation on the establishment of the Public Service Commission "as one of the cardinal features" of its report, "and as forming

<sup>24</sup> Preamble to the Government of India Act, 1919.

<sup>25</sup> Report of the Lee Commission, para 24.



integral and essential part of the whole structure" of its "proposals for the future of the Services."<sup>26</sup> It was only in October 1926, that the Lee Commission's recommendations were adopted and the Public Service Commission was set up in that year. While the Lee Commission assigned to the Public Service Commission functions less extensive than those contemplated in the Government of India Act, it assigned to it functions far more extensive than those which were ultimately assigned to it in 1926. "The original conception of a Public Service Commission was progressively whittled away until little of the original idea survived".<sup>27</sup>

The Public Service Commission (P.S.C.) consisted of five Members, the maximum number permitted by the Act and urged by the Lee Commission.<sup>28</sup> The qualifications for appointment and the pay and pension attaching to the offices of Chairman and Members were prescribed by rules made by the Secretary of State-in-Council.

The Lee Commission, however, emphasised the paramount importance of securing as Members of the Commission men (i) of the highest public standing, who would appreciate the vital and intimate relationship which should exist between the State and its servants; (ii) detached so far as practicable from all political associations; (iii) possessing, in the case of two of their number at least, high judicial or other legal qualifications; (iv) able to serve as whole-time officers; and (v) who would receive emoluments not less than those of High Court Judges.<sup>29</sup>

The importance of the recommendations of the Lee Commission is evident from the fact that they served as the guiding principles not merely for the P.S.C. which worked during 1926-1937 but also for the succeeding Commissions. The recommendations also resulted in the creation of an institution different in character from its counterpart in U.K. and U.S.A., though closer to the former.

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<sup>26</sup> *Ibid.*, para 31.

<sup>27</sup> Sir Ross Barker's Memorandum submitted to the Indian Statutory Commission, Vol. XV, Extracts from Official Oral Evidence, London, His Majesty's Stationery Office, 1930, para 8, p. 191.

<sup>28</sup> Report of the Lee Commission, *op. cit.*, para 25.

<sup>29</sup> *Ibid.*



Under the rules at least two of the Members of the P.S.C. were to be persons who had been for ten years in the service of the Crown in India. It consisted originally of three Europeans and two Indians. The Chairman was a member of the Home Civil Service of the U.K.<sup>30</sup> Among its other Members were a member of the I.C.S., a member of a Provincial Civil Service, a former member of the Council of State, and an ex-Vice-Chancellor of an Indian University. Two of them had been professional lawyers.

The Chairman and the Members were appointed by the Secretary of State-in-Council for five years and could be re-appointed. Thus Sir Ross Barker remained as Chairman until 1932, although his term expired in 1931. No Member could be removed before the expiry of his term of office, except by order of the Secretary of the State-in-Council.<sup>31</sup>

As the Lee Commission contemplated, the P.S.C. was to be an All-India body, and the All-India Services were within its province, although its advice could be sought on matters relating to the Provincial Services. The Lee Commission held that any proposal that a Central Public Service Commission should be empowered to interfere on its own initiative, in provincial administration would be regarded as violating the principle of provincial autonomy.<sup>32</sup>

The P.S.C. was to advise the Governor-General on matters pertaining to recruitment whether by competitive examination, by selection or by promotion, to any post in an All-India Service, Central Service Class I or Class II. In the maintenance of standards of qualification for entry into the public service, the broad pattern was that of its counterpart in the U.K.

Under other functions came (i) the cases in which the Governor-General was to take disciplinary action against an officer; and (ii) memorials submitted by an officer of an All-India or a Central Service on which orders were to be passed by the Governor-General. In these cases, the opinion tendered by the Commission, was to form part of the record of the case

<sup>30</sup> Mr. (later Sir) Ross Barker was the first Chairman. For a great part of his service in the Board of Education, he was its legal adviser.

<sup>31</sup> The Government of India Act, 1919, Section 96 C.

<sup>32</sup> Report of the Lee Commission, *op. cit.*, paras 26—30.

and was to be communicated to the officer concerned along with the orders of the authority empowered to pass orders in the case. In disciplinary cases the Governor, or Chief Commissioner or the local Government of any province might, before passing any order, consult the Commission.

The P.S.C. unlike the subsequent Public Service Commissions, might tender advice on (i) any question concerned with the pay, allowance, pensions, provident or family pension funds, leave rules or conditions of service generally, of any All-India Service or a Central Service; (ii) cases in which members of an All-India Service or a Central Service were adversely affected by reason of the abolition of any post or class of posts: and (iii) any question referred to it through the Governor-General by the Secretary of State.

The procedure for the conduct of the internal business of the Commission was laid down in a set of rules called the Public Service Commission (Functions) Rules by the Secretary of State-in-Council which were published for general information on October 14, 1926.

On October 8, 1926, the P.S.C. took over the functions of the Staff Selection Board and decided that the title "Staff Selection Board" should be abandoned, and that the work should be carried out by the Ministerial Selection Branch of the P.S.C.<sup>33</sup>

Although the work of the P.S.C. in the field of recruitment, discipline and other matters was advisory in nature, the Lee Commission was confident that it would "become in course of time the recognised expert authority in India, on all service questions."<sup>34</sup> A close study of the P.S.C. (Functions) Rules and the working of the Commission indicates that the advice sought by the Governor-General and tendered by the P.S.C., was to be obligatory; there might, however, be certain subtle variations as to the manner in which the advice was applied. If the Governor-General referred to the P.S.C. any question connected with recruitment to an All-India Service or a Central Service, Class I, it was obligatory on the part of the P.S.C. to tender advice. Similarly, in all matters pertaining to the

<sup>33</sup> Proceeding of the P.S.C. for the year 1926-27, 2nd meeting.

<sup>34</sup> Para 30 of the Report.

conditions of admission to examinations, the conduct of the competitive examination, and the ranking of the candidates it was more or less the constitutional duty of the P.S.C. to advise the Governor-General. Other cases like those of a disciplinary nature placed the Governor-General under an obligation to obtain the advice of the Commission, but the latter's advice was intended simply to form part of the record of the case and as such was to be communicated to the officer or officers concerned, along with the orders of the authority empowered to pass orders in the case.

Under the rules every question at a meeting of the Commission was to be determined by a majority of the Members, present and voting on the question. The Chairman had few special powers. He had a second or casting vote. He had the right to call for the reconsideration of business transacted in his absence. If the Chairman was unable to be present at a meeting of the Commission, he was to appoint one of the Members to act for him; and the Member so appointed was to have all the powers of the Chairman at that meeting, unless the Chairman otherwise directed. The quorum for a meeting of the Commission was to be three; but the Chairman might adjourn any business at a meeting, if he was of the opinion that it could not be transacted conveniently owing to the non-attendance of any Member. All decisions of the Commission were to be recorded by the Secretary who was appointed by the Commission with the approval of the Governor-General-in-Council.

As against other Departments, the Home Department occupied a special position in relation to the P.S.C., as it also dealt with service matters. Close co-ordination between the two was a pre-requisite for the smooth operation of the personnel system. The requirements of the P.S.C. in regard to its staff, including its Secretary were, like those of any other operating agency, to be met by the Home Department. It looked as if the P.S.C. was given "a skeleton staff of a dozen or so and treated more as an appendage of the Home Department than an independent body".<sup>35</sup> More conspicuous was the Commission's dependence

<sup>35</sup> Hayes, C.G., Report on the Public Service Commissions of British Commonwealth Countries, 1955, p. 143, para 6.

on the Home Department in the field of finance. The Home Department formulated the budget of the P.S.C., as if the latter was an attached office. Finally, in regard to the functions of the Governor-General in his relation to the P.S.C., the Home Department was to act as a "filter and funnel" to the Governor-General. Like a funnel, it received all the business intended for him but like a filter it allowed only what was essential to go up to him, keeping back the less important details. In the first year of the existence of the P.S.C., therefore, it was decided by the Home Department with the concurrence of P.S.C., that any correspondence between the P.S.C. and Departments should be official both ways, as the P.S.C. (Functions) Rules laid down; the P.S.C. and the Home Department could, however, make unofficial references to each other on other than statutory questions.<sup>36</sup>

The P.S.C. could hardly claim to be independent of the Executive. As the Lee Commission proposed, in respect of recruitment for the All-India and Central Services, and (if a local Government should so desire) for Provincial Services the P.S.C. acted as an agent of the Secretary of State, the Government of India, or the local Government as the case might be.<sup>37</sup> The P.S.C. felt uncomfortably circumscribed by the procedure for the conduct of its internal business laid down in the P.S.C. (Functions) Rules. This unsatisfactory position of the Public Service Commissions which preceded the Union Public Service Commission, remained unaltered until 1950, when the Constitution of India accorded the latter a more independent status.

## 6. BARKER'S CONCEPT OF THE PUBLIC SERVICE COMMISSION

The P.S.C. came under a detailed review of the Statutory Commission of 1928 (Simon Commission). This afforded an opportunity to assess the shortcomings of the Public Service Commission. The Memorandum on the P.S.C. submitted by W.R. Barker in his personal capacity and not as the Chairman of the P.S.C., is a classic exposition of the conception of an

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<sup>36</sup> Proceedings of the P.S.C., 1926-27, Note on procedure in correspondence with Departments of the Government of India, October 12, 1926.

<sup>37</sup> Para 27 of the Report.

independent Public Service Commission. His views served as the guide for the authors of both the Government of India Act, 1935 and of the Constitution of India, in eliminating the imperfections of the Commission, and for the Government of India and the subsequent Commissions in their relationship.

The Memorandum is based on the work of such Commissions in the early days in the Commonwealth countries. Emphasising the need for non-interference with the work of the Commission in its own sphere, he observed that a well-organised Government like a well-organised business, delegates to an agent or subordinate body the task of selecting efficient instruments to do its work and of regulating the concerns of its domestic establishment in order to set itself free for the far more important problems of administering the business in which it is engaged. If it fails to obtain good instruments by this method, it alters the machinery by which the instruments are obtained. It does not take the machinery into its own hands.<sup>38</sup>

Within these limitations "Governments throughout the Empire have set up Public Service Commissions which exercise almost independent powers and the reasons for their independence are twofold. First, a Public Service Commission is an extremely expensive body. If a householder engages a cook at a high salary to cook his meals, it is a mistake equally detrimental to his purse and his digestion to cook them himself or to interfere in the culinary operations of his servant. He lays down his gastronomic policy and leaves it at that. Secondly, a Public Service Commission acquires a fund of knowledge and experience of service matters which neither the Government nor any one else possesses. The Commission may be wrong in its decisions but there is no one else of whom it may be said that they are more likely to be right. In other words, in their own field, their authority is as absolute as that of the Education Department, or the Finance Department or any other Department of the Government of India, not because they are any more incapable of making mistakes than these departments but because the last word must rest with

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<sup>38</sup> Barker's Memorandum, *op. cit.*, para 11.

some one and that some one should be the body which by experience and knowledge is better qualified than any other body to express an opinion".<sup>39</sup>

Barker considered the powers of the P.S.C. to be defective, and, therefore, advocated their widening. He concurred with the Secretary of State who expressed doubt in his despatch of April 9, 1925, whether a Commission constituted on the limited advisory basis proposed by the Government of India and ultimately adopted, would command the confidence alike of the public and of the services to the degree which was necessary, if the latter was to function efficiently. Barker thought that the doubt had been justified, and, therefore, he stated the case for an extension of powers. These suggestions may be grouped as follows:<sup>40</sup>

*Recruitment:*

(i) The Commission should be the absolute authority for determining the method of recruitment; whether by competitive examination or selection or partly by competitive examination and partly by selection.

(ii) Where recruitment is by competitive examination, the Commission should be in a position to decide what preliminary qualifications (e.g., a degree and/or the attainment of a specified age) a candidate should possess in order to be admitted to the examination.

(iii) The Commission ought to be able in cases of competitive examination to determine the subjects in which a candidate shall be examined.

(iv) The Commission should have control of the organisation of examinations.

(v) Where recruitment is made by selection, the Commission should determine the qualifications of candidates and have an absolutely free hand in selecting them.

(vi) The Commission should not exercise the power of recruitment by promotion, as it does not possess the requisite knowledge as regards several candidates who are fit for

<sup>39</sup> *Ibid.*, para 14.

<sup>40</sup> *Ibid.*, pp. 191-195.

promotion. The best remedy would be to establish promotion committee on which a Member of the Public Service Commission should be entitled to sit.

*Disciplinary Powers:*

(i) The Commission should be careful not to encourage the suspicions that it facilitates the retention in service of the guilty and incompetent.

(ii) The Commission must have power to depute a Member to hold an inquiry himself, if it considers that it has failed to obtain the proper material for arriving at a decision.

*Consideration of Grievances:*

The Commission should be allowed to become acquainted with service grievances. This is essential, if the Commission is to "become in course of time the recognised authority in India on all service questions" as the Lee Commission prophetically remarked. Members of the services should have free and less formal access to the Commission for the purpose of advocating service reforms or the removal of grievances; and that all memorials should be referred to the Commission for consideration and advice.

*Condition of Service:*

Service problems should not be left to officers who are immersed in other duties and are unable to review any service problem as a whole. Still less should they be left to financial experts who derive credit from disallowing legitimate claims. All questions relating to service conditions should be referred to the P.S.C., as a matter of course and the Commission should have independent power to consider service problems and make recommendations<sup>41</sup>.

*Acceptance and Non-Acceptance of the Commission's Advice:*

On questions not vitally affecting any principle of policy or substantially affecting finance, the opinion of the P.S.C. should be normally accepted. Occasions for friction would be removed

<sup>41</sup> No consideration was given to this recommendation under the Government of India Act, 1935 and the Constitution of India.

if the Government of India, before rejecting the advice of the P.S.C., provides machinery whereby the Commission can orally explain its position. If the Government of India is unable to accept the advice of the P.S.C. on service questions, it should be under an obligation to publish that advice in the Gazette together with their reasons for disallowing it.

Most of the suggestions of Barker for the improvement of the position of the P.S.C., were adopted under the Government of India Act, 1935; and several of those which were not implemented in the pre-Independence period were ultimately incorporated in the Constitution of India.

#### 7. THE FEDERAL PUBLIC SERVICE COMMISSION (1937-1950)

The functions of the P.S.C. were sought to be improved upon and crystallized in the White Paper containing the proposals for Indian Constitutional Reforms. These proposals emerged finally in the form of Section 266 of the Government of India Act, 1935. When the Government of India Act came into force in 1937, the Public Service Commission was renamed the Federal Public Service Commission. Certain features of the Federal Commission deserve special mention as they distinguish it from its predecessor and show how the former was accorded a status higher than the latter. First, unlike the P.S.C., whose functions and duties were left to be regulated by the Secretary of State, the Federal Commission's area of concern was defined by the Government of India Act, 1935. The scope of the Federal Commission's work and the manner in which its advice should be sought were, however, laid down by the Governor-General through Consultation, Regulations and Rules of Procedure. Secondly, the Government of India Act, 1935, unlike the Act of 1919, required the Provinces to set up Public Service Commissions of their own. The Lee Commission on the basis of whose recommendations the P.S.C. was constituted, had contemplated the Commission as an All-India body. Accordingly, the P.S.C. (Functions) Rules required it to assist the Local Governments in dealing with problems of provincial administration, when invited by them. It may be



added that the Government of India Act, 1919, made an express provision in regard to the functions of the British Civil Service Commission, in relation to recruitment for services in India. But after the Federal Commission came into existence in 1937, the examination for the recruitment to the I.C.S. was conducted simultaneously in the U.K. and India, while before 1937 the P.S.C. held examinations on behalf of the British Civil Service Commission.<sup>42</sup> Thus the Federal Commission became equated with the British Civil Service Commission in this respect.

The Governor-General was authorised by the Government of India Act, 1935 to appoint the Chairman and other Members of the Federal Public Service Commission. At least one-half of the Members of the Commission were required to be persons who at the dates of their respective appointments had held office for at least ten years under the Crown in India. The number of Members of the Commission, their tenure of office, the method of termination of their service and their conditions of service were matters to be determined by the Governor-General in his discretion, through regulations.<sup>43</sup>

On ceasing to hold office, the Chairman of the Federal Commission was ineligible for further employment under the Crown in India. But Members other than the Chairman of the Federal Commission, were eligible for any other appointment under the Crown in India with the approval of the Governor-General. The bar to the holding of future office by the Chairman of the Federal Commission and by the Chairmen of Provincial Commissions gave them a special position not known to the Chairman of the P.S.C. While a ban on the re-employment of the Chairman was intended to ensure unbiased advice and impartial selections for appointments, no similar precautionary provision was made in respect of Members.

A detailed study of the functions of the Federal Commission

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<sup>42</sup> Cf. the proceedings of the first meeting of P.S.C., which was convened on October 5, 1926. It was resolved in the meeting that the British Civil Service Commissioners should be thanked for their offer of help in connection with future examinations for the I.C.S. in India.

<sup>43</sup> The Federal Public Service Commission (Conditions of Service) Regulations, 1937 dealt with them.

as laid down in Section 266 of the Government of India Act, 1935, is of importance for two reasons: first, as mentioned above, the functions of the Commission were, for the first time, given a statutory sanction. Secondly, the corresponding provisions in the Constitution of India are more or less a reproduction of the former.

Section 266 of the Government of India Act, 1935 deals with two groups of functions, executive and advisory. The executive duty of the Commission was to conduct examinations for appointments to the services of the Federation. It was also the duty of the Federal Commission, if requested by any two or more Provinces so to do, to assist those Provinces in framing and operating schemes of joint recruitment for any services for which candidates possessing special qualifications were required.

The functions in the second group, were advisory and of two types: those in which the Commission was required to be consulted; and others in which such consultation was not necessary. The Secretary of State and the Governor-General were authorised to draw a line of demarcation in their respective fields of appointments, either generally, or in any particular class of case, between the two types of advisory functions. The Federal Public Service Commission (Consultation) Regulations, 1937 dealt with the functions in which it was not obligatory on the part of the executive government, to consult the Federal Commission. Similarly, it was not necessary for the Commission to be consulted about the manner in which appointments and posts were to be allocated between the various sections of the community, viz., Hindus, Muslims, Europeans, Anglo-Indians, etc., in the Federation in certain specified fields.

It was subject to those two types of limitations, that the Federal Public Service Commission (F.P.S.C.) was required to be consulted on:

- (a) all matters relating to methods of recruitment to civil services and posts;
- (b) the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of

candidates for such appointments, promotions or transfers ;

(c) disciplinary matters ;

(d) any claim for reimbursement of expenses incurred by a Government servant in defending legal proceedings instituted against him for acts done in the execution of his duties ; and

(e) questions of award of pension for injuries sustained by a Government servant in a civil capacity ; and any other matter referred to it by the Governor-General.

Regulation (2) was of a somewhat sweeping nature in that it excluded generally from the Commission's purview certain types of recruitment. The posts/services thus excluded, were mostly those created for diplomatic, political and security purposes. The schedule also included those posts which were excluded with the concurrence of the Commission.

Regulation 3 was more restricted in its scope. It covered some of the services and posts to which appointments could be made without consultation with the Commission, as long as they were made in a prescribed manner.

Regulation 4 had two parts : the first dealt with posts to which recruitment was made in England by or through the High Commissioner. According to the second part of the Regulation, it was not necessary to consult the Commission in regard to selection for appointment to a post, if the officer to be appointed was not likely to hold the post for more than a year ; and also for a post likely to last not more than three years, if the Commission advised that the appointment might be made without consulting them.

During the Second World War, a provision was made that it was not necessary for the Commission to be consulted in regard to the selection for appointment to any post specially created in connection with the war emergency. This was, however, withdrawn in January 1946.

Regulation 5 specified the disciplinary items for which it was not necessary to consult the Commission before an order was issued. Finally, Regulation 6 pointed out that in discharging his functions under these Regulations, the Governor-General would act in his discretion.

The procedure of the F.P.S.C. in regard to recruitment to the public services, disciplinary matters, and formal proceedings

were regulated through instructions issued by the Governor-General. These instructions, which were more or less a copy of those issued in connection with the P.S.C., must have made the F.P.S.C. feel as much circumscribed as its predecessor<sup>44</sup> in discharging its duties.

In pursuance of Section 265 (2) of the Government of India Act, 1935, the Governor-General passed regulations on April, 1937, fixing the size of the Commission and the conditions of service of the members, including the Chairman. The same regulations also dealt with the staff of the Commission. The size of the permanent staff, their pay, tenure and other conditions of service were determined by the Governor-General. The formal appointments of the senior staff were to be made by the Commission, while the junior staff was appointed and controlled by senior officers of the Commission's Secretariat.

Two factors gradually led to the extension of the Commission's functions. First, its statutory basis enabled the Commission to urge that it was the constitutional duty of the Government to consult it on matters stipulated in the Government of India Act, 1935. Secondly, the growing post-war needs of Government compelled it to make effective utilization of the services of the Commission. This is evident from the Memorandum of the Home Department entitled "Extension of Functions of the Federal Public Service Commission" issued on June 17, 1946.<sup>45</sup> The Memorandum explains how the Government of India intended to associate the F.P.S.C. more closely with matters affecting the members of the public service. The Memorandum, which required each Department to establish a Departmental Promotion Committee, insisted that the Commission should be associated with all promotions to the greatest practicable extent.

The most important recommendation of the Memorandum was in regard to entrusting the responsibility for selection of candidates wholly to the Commission. The Commission used to furnish three names for each vacancy communicated to it,

<sup>44</sup> Cf. the P.S.C. (Functions) Rules which contain the procedure of the Commission, regulated by the Governor-General.

<sup>45</sup> Reference to this Memorandum is also found in the Memorandum submitted by the Government on the Fourth Report of the U.P.S.C.

save in exceptional circumstances. But the Memorandum proposed that the Commission should thereafter, give the name of only one candidate against each vacancy. The Commission was, however, required to keep two or three names in reserve to fill the vacancy in case the candidate selected was subsequently found unfit or was unable for any reason, to accept the appointment.

Among other matters relating to Central Services, Class I and Class II, with which the Commission was urged to be associated were :

- (i) the grant of extension of service for a period of more than six months after the age of superannuation;
- (ii) the withholding of an ordinary, special or additional pension from any officer ; and
- (iii) the compulsory retirement of officers under specified conditions.<sup>46</sup>

It was also emphasised that the Commission would have the right to call for any information which it might require in the discharge of its functions.

The F.P.S.C. continued to function between 1947 (when India attained Dominion Status) and 1950 (when she emerged as a Republic). The Dominion of India was provided with an interim Constitution by the simple expedient of adaptation of the Government of India Act, 1935, deleting provisions inconsistent with the new status of India. During this period, however, the F.P.S.C. witnessed certain significant changes which have had a direct bearing on the structure of the public service and the techniques of recruitment to it. In the first place, the association of the British Civil Service Commission with the Indian public service discontinued. Although this resulted from the advent of Independence, the Commissioners had ceased to recruit to the I.C.S. from 1943. There was cessation of this recruitment for the next 3 years on account of the war emergency and later the political situation. The first combined examination for the two All-India and the eight Central Services was held in December, 1947, by the Federal Commission alone.<sup>47</sup>

<sup>46</sup> These conditions have been specified under Article 353 A, 459 and Note I to Article 465 A, Civil Service Regulations.

<sup>47</sup> First Annual Report of the U.P.S.C., 1950-51, para 15, & following.

Secondly, as a result of the constitutional changes of 1947, an Indian Foreign Service had to be constituted for the first time. Thirdly, there was depletion of the All-India Services and the Central Services by the departure of British and Muslim officers after Independence and the partition of India. To meet these abnormal requirements, Government resorted to emergency recruiting arrangement. This did not involve the holding of written examinations, nor did it observe the age-limits applicable to normal recruits of the All-India Services.<sup>48</sup> For this purpose an Emergency Recruitment Board was set up by the Government with the Commission's approval.

Fourthly, with the integration of the old Indian Princely States, special recruitment in the Part 'B' and 'C' States had to be undertaken. Finally, as a result of the integration, when the Government of India took over the administration of the departments of the Princely States such as Railways, Income-Tax, Central Excise, Posts and Telegraphs, Audit and Accounts, the officers of the constituent States had to be found suitable places in the Central Services. For this also a Special Selection Board was established in consultation with and in association with the Commission.

A noteworthy development in the wake of Independence with respect to relations between the Commission and the Government, was the wise procedure that the Government evolved to make rejection of the Commission's advice as difficult as possible. It was decided that any case in which a Ministry wished to reject the Commission's advice must be referred to the Appointments Committee of the Cabinet, consisting of the Prime Minister, the Home Minister and the Minister administratively concerned with the case, the Finance Minister joining the Committee in the event of the dissenting Ministry happening to be the External Affairs Ministry or the Ministry of Home Affairs.<sup>49</sup>

This development was an outcome of a change in the

<sup>48</sup> Cf. *Ibid.*, para 16. Since the pattern of emergency recruitment has continued unabated although under a different label, *i.e.*, special recruitment, its nature has been discussed in detail in the chapter on "Recruitment—Scope and Context".

<sup>49</sup> The First Annual Report of the U.P.S.C., para 10.

Governor-General's constitutional status, from a real Chief Executive to a Constitutional Head. Consequently, as the Governor-General had no discretion left outside the Ministers' advice, it necessitated a review of the situation. This resulted in the discontinuation of the practice of placement of cases of non-acceptance of the Commission's advice by the Chairman of the Commission with its point of view, before the Governor-General in his capacity as the real Chief Executive.

To sum up, when the Federal Public Service Commission was renamed the Union Public Service Commission under the Constitution of India on January 26, 1950, the change-over was not very perceptible for it had very few sharp breaks in it. Although it did swing the institution of the Central Public Service Commission into a new channel, it retained far more than it swept away. The existing principles and practices of the U.P.S.C. are by and large, a continuation of those of its predecessors. Thus, if the merit system is the sheet-anchor of the U.P.S.C., it is mainly because of its anchorage in the past.

PART TWO

ORGANIZATION AND FUNCTIONS OF THE U.P.S.C.



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### CHAPTER III

## COMPOSITION AND ORGANIZATION OF THE U.P.S.C.

### 1. COMPOSITION OF THE COMMISSION

The Constitution of India envisages three categories of Public Service Commissions: The Union Public Service Commission to serve the needs of the services of the Union; a Joint Public Service Commission for the services of two or more than two States; and a State Public Service Commission for those of a State. However, the U.P.S.C. may also agree to serve all or any of the needs of a State with the approval of the President. While the U.P.S.C. and the State Public Service Commissions were to come into being immediately after the inauguration of the Constitution, a Joint Commission is to be created by an Act of Parliament, as and when a resolution is passed to that effect in the Assemblies of the States concerned.

Exercising tutelary authority over the personnel required to staff mostly the middle and upper levels of the Central Services<sup>1</sup> and the All-India Services, the U.P.S.C. occupies a pivotal position. No wonder that the Lee Commission emphasised "the paramount importance of securing as members of the Commission, men of the highest public standing, who will appreciate the vital and intimate relationship which should exist between the State and its servants. These Commissioners should be detached so far as practicable from all political associations and should possess, in the case of two of their number at least, high judicial or other legal qualifications. They should...be whole-time officers and their emoluments should not be less than those of High Court Judges."<sup>2</sup> The

<sup>1</sup> Under the U.P.S.C. (Exemption from Consultation) Regulations, 1958, recruitment to Class III and Class IV Services is excluded from the purview of the Commission, except where the recruitment rules otherwise provide.

<sup>2</sup> *Ibid.*, para 25. In spite of its observations, the Lee Commission considered that the ultimate authority to determine the qualifications of the

authors of the Constitution of India, inspired by the observations of the Lee Commission, accorded the U.P.S.C. a status close to that of the Judiciary.<sup>3</sup> This was but a reflection of the importance which the architects of the Constitution attached to the public personnel and matters concerning them.

The Constitution of India is unlike its predecessors in providing the U.P.S.C. with a tidy constitutional structure. Some of the unsatisfactory features of the Federal Public Service Commission have been discarded with a view to protecting its independence and to placing it beyond the pale of the influence and interference of the Executive Government. Thus some important matters affecting the Commission are no longer determined by the Executive, but have been regulated by the Constitution itself. Under the Government of India Act, 1935, on the other hand, matters such as the tenure of Members and the method of the termination of their service, were regulated by the Governor-General, at his discretion. On ceasing to hold office for instance, Members other than the Chairman were eligible for any other appointment under the Crown in India, with the approval of the Governor-General.<sup>4</sup>

The Constitution of India is not however, dissimilar to the Government of India Act, 1935 in authorising the Chief Executive to determine the number of Members of the Commission. The Government of India Act, 1919, on the other hand, specified that the Commission should consist of not more than five Members of whom one was to be Chairman. This clause was virtually operative under the successor Act, for the number of Members of the Commission never exceeded five.

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Members of the Public Service Commission was vested in the Chief Executive (the Secretary of State for India) under the Government of India Act, 1919.

<sup>3</sup> Compare the speeches of the members of the Constituent Assembly who sought to equate the importance of the U.P.S.C. with that of the Supreme Court and the High Courts (Constituent Assembly Debates, Vol. IX, No. 1, 22nd August 1949, pp. 575, 583 & 593).

<sup>4</sup> Vide Section 265 (2). However, it must be added that the Governor-General's authority even in such matters was not entirely absolute. He was guided in the exercise of this authority by the Instrument of Instructions issued to him.

On January 26, 1950 (when the Federal Public Service Commission came to be known as the Union Public Service Commission), there were four Members including the Chairman of the Commission. Two more Members were appointed within a year by the President.<sup>5</sup> The strength has however, varied mostly from six to eight Members, although the maximum number was fixed at nine in 1956.<sup>6</sup>

The U.P.S.C. does not exist on the sufferance of the President. The President is under a constitutional obligation to appoint the Commission, although the number of Members is not specified. A member of the Constituent Assembly emphasised the importance of the size of the Commission in securing its independence. He urged in vain, that the number should be fixed by the Constitution and not left to the President.<sup>7</sup>

The Chairman and other Members of the Commission are appointed by the President under Article 316 (I) of the Indian Constitution. The President is not however, required to follow any formal method in their appointment, as he is in the case of appointment of a Judge of the Supreme Court or the Comptroller and Auditor-General of India. Thus a Judge of the Supreme Court is appointed by the President by warrant under his hand and seal. Nor must the President follow any unusual procedure, like the one, followed in the United Kingdom where the appointment of a Civil Service Commissioner is made through an Order-in-Council that gives certain amount of dignity to the office.<sup>8</sup>

In the choice of the Members of the Commission, the Constitution requires the President to see that "as nearly as may be one-half" of the total number "shall be persons who

<sup>5</sup> *Ibid.*, p. 2. Earlier on the recommendation of the Economy Committee, the President accepted that the strength of the Commission should be placed at seven (six Members and a Chairman).

<sup>6</sup> Vide Seventh Report of the U.P.S.C., 1956-57, para 4. At one time during 1947-48, however, the strength of the Commission rose to eight members in addition to the Chairman.

<sup>7</sup> Vide H. V. Kamath's speech in the Constituent Assembly, *op. cit.*, pp. 588-89.

<sup>8</sup> Mackenzie, W.J.M. and Grove, J.W., Central Administration in Britain, *op. cit.*, p. 38.

at the date of their respective appointments have held office for at least ten years either under the Government of India or under the Government of a State".<sup>9</sup>

No other provision of the Draft Constitution of India relating to the Commission, caused so much discussion as the stipulation that at least half of the Members of the Commission should be civil servant of ten years' standing. The formula was opposed by the Federal Public Service Commission and the different Provincial Public Service Commissions,<sup>10</sup> as well as by certain prominent members of the Constituent Assembly. The Conference of the Chairmen of the Federal Public Service Commission and the Provincial Commissions was of the opinion that this proviso should be amended so as to provide one-third in place of one-half of the total Members of the Commission from career government service. Some members of the Constituent Assembly supported the recommendation of the Conference for several reasons. They considered that in actual practice the Members from government service would go on increasing till they comprised the whole; and if the proposed Article was passed, there was no bar to all the Members of the Commission being appointed from the career service.<sup>11</sup> While some agreed to the proportion suggested by the Conference, one member sought to make the minimum the maximum.<sup>12</sup> Other members of the Constituent Assembly

<sup>9</sup> Persons who are not in government service on the date of their appointments, it seems, are not counted as those who belong to the group of official Members (i.e., from among the serving civil servants). When the above interpretation was given by Shri Jaspat Roy Kapoor, a member of the Constituent Assembly, it was not disputed by Dr. Ambedkar, the principal spokesman of the Drafting Committee of the Constitution (22nd August, 1949, p. 578).

<sup>10</sup> The Chairman and Members of the Federal Public Service Commission and Chairmen of the different Provincial Public Service Commissions met in a conference at New Delhi in 1948 to consider the draft provisions relating to the Commissions. The Federal Public Service Commission forwarded the recommendations of the Conference in a letter addressed to the President of the Constituent Assembly.

<sup>11</sup> Vide Shri H. V. Kamath's speech, Constituent Assembly Debates (C.A.D.), *op. cit.*, 2nd August, 1949, p. 587.

<sup>12</sup> Shri J.R. Kapoor was the chief advocate of the Commissions' recommendations, C.A.D., *Ibid.*, pp. 577-578; also see Shri H.V. Kamath's

held that if the proposed Article was accepted the viewpoint of the official Members of the Commission would be the determining factor in the conduct of the business of the Commission. One member argued as follows: "The longer the period a person has been in government service, the more conservative he becomes and develops the whims, caprices and even the idiosyncrasies of that class. They get out of touch with public opinion and the changing needs of the society. I think, therefore, it would not be safe and in the public interest to give government servants a permanent majority on both the Central and State Commissions. The freshness of the outlook of non-officials must also be brought to bear upon the selection of candidates in a fair measure".<sup>13</sup>

Replying on behalf of the Drafting Committee, Dr. Ambedkar sought to impress upon the Constituent Assembly the importance of determining the fitness of candidates for public positions. He contended that these judgments presuppose a certain amount of experience in government service on the part of the person who is asked to assess the suitability of candidates for public positions. Therefore, he added nobody could be a better judge in this matter than a person who had already been in the public service. However, as a compromise formula evolved out of these discussions, Dr. Ambedkar agreed to alter the wording of the Draft Constitution to read "as nearly as may be one-half"<sup>14</sup> in place of "at least one-half".

By incorporating this provision in regard to the proportion of the official members, the Constitution of India followed the pattern evolved under its predecessor but departed from that of the British Civil Service Commission under which all Commissioners have been career civil servants. The Indian

speech, p. 587.

<sup>13</sup> *Ibid.*, p 577. Here the terms, "official" and "non-official" Members are used in a restricted sense. Official Members are those who have been drawn from the public service, while the non-official Members from outside the public service.

<sup>14</sup> In fact, the Ministry of Home Affairs was inclined to the view that from the point of view of the public service, the services should be even more strongly represented on the Commission. Compare Dr. Ambedkar's speech, Constituent Assembly Debates, *op.cit.*, 22nd August, 1949,

pattern is not however, far different from that of Dominion countries like Canada and Australia in this regard.<sup>15</sup>

✓ Except for a few years following the inauguration of the Constitution (when they constituted half of the total strength of the Members of the Commission), the official Members have accounted for one-third and very often less than one-third of the total strength. Generally, they have been drawn from the top-most echelon of the public service, namely, the I.C.S. Normally, there have been two I.C.S. officers as Members of the Commission, one of them serving as Chairman.<sup>16</sup>

The reservation provision, it appears, has had a salutary effect on the relationship of the Commission and the Executive. Despite the Commission being physically and legally removed from the Executive, the inclusion of senior civil servants tends to bridge the gap between the Commission as a service agency and the Ministries as operating agencies, being serviced by integrating "independence" with "cooperation".<sup>16a</sup>

As regards the other half of the Commission, the Constitution has not laid down any qualifications. Although there is no impediment to the choice of non-official Members on the basis of political preference, the Government has hitherto taken care to see that none of the appointments made to the Commission gives the appearance of being "political appointments".<sup>17</sup> By and large, the Executive has been guided in this

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p. 592. It is interesting to note when Shri H.V. Kamath suggested "not more than one-half" in place of "as nearly as may be one-half". Dr. Ambedkar replied, "No. I have done my best".

<sup>15</sup> Hayes, C.J., Report on the Public Service Commissions of British Commonwealth Countries, *op. cit.*, para 19 on page 89, para 17 on page 9.

<sup>16</sup> The only exception to this is Shri N. Govindrajan, a retired officer of the Indian Service of Engineers on the date of his appointment as a Member of the U.P.S.C. He acted as Chairman of the U.P.S.C. for seven months after Shri R. N. Banerjee retired on May 10, 1955.

<sup>16a</sup> This meets the objections of those who are against the independence of a public personnel agency. Compare Shaw, W.W., 'Independent Civil Service Commission and Executive Power', *Public Personnel Review*, 14 (July 1953), pp. 113-115.

<sup>17</sup> Shri J. Sivashanmugam Pillai's choice to seek election to Parliament (and his consequent election as an M.P.) tends to create doubt whether his appointment to the U.P.S.C. in 1955 was on the basis other than

respect by the advice of the Lee Commission that the Members should be drawn from "men of the highest public standing", "detached so far as practicable from all political associations", "two of their number, at least", possessing "high judicial or other legal qualifications".<sup>18</sup> Thus they are drawn from different backgrounds. Of the 21 Members appointed till March 31, 1962 to the U.P.S.C., there were five from the I.C.S., one from a Provincial Civil Service, four educationists, three engineers, one scientist, four ex-Chairmen and ex-Members of State Commissions, two retired High Court Judges and one ex-Speaker of a State Legislature. One of them had been once an elected member of a Provincial Legislative Assembly and another an ex-Minister of an Indian Princely State in 1944. Yet another Member appointed in 1961, was an engineer by profession, drawn from the private sector, having held a very prominent position in a private undertaking.<sup>19</sup>

Indeed, the composition of the U.P.S.C. tends to serve two important purposes of a service agency: (a) to act as the "expert authority" on service matters with which it is concerned; and (b) at the same time to tender advice along non-partisan lines. In other words, the system seeks to combine the specialist and the generalist approaches, avoiding both excessively narrow specialisation and superficial familiarity with specialised aspects of personnel functions.

In the actual choice of the Members of the Commission the President has followed the method of selection of the Judges of the Supreme Court and of the High Courts. Thus the Chairman of the Commission is consulted in the appointment of Members. Consequently, the President could have the benefit of the advice of those who have knowledge of the competence of some of the prospective candidates for the Commission's membership because of their association as members of the interview boards of the Commission. This

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political preference. He has been the only Member of the Commission who is an ex-Speaker of a Legislature. So far, he is the only retired Member of the Commission elected to Parliament.

<sup>18</sup> Lee Commission, *op. cit.*, para 25.

<sup>19</sup> Mr. A.V. Ramaswami who was appointed Member of the Commission in December 1961 was the Director of an electrical firm.



procedure helps to maintain a balanced composition of the Commission for operational efficiency.

## 2. TERM OF OFFICE OF MEMBERS

A Member of the U.P.S.C. normally holds office for a term of six years or until he attains the age of 65 years,<sup>20</sup> whichever is earlier. A member of the Constituent Assembly doubted the validity of the principle of a limited term. "If the members of the Public Service Commission were permanent", he argued, "they would not have to look to the favour of the Government of the day concerned for their future, and they would act absolutely independently. They would neither be after the smiles of the Government nor would they be afraid of their frowns."<sup>21</sup>

The constitutional provisions in regard to the principle of the limited term of office of Members of Public Service Commissions may be summed up as follows :

- (1) A Member of the Commission is ineligible for retention in his office on the expiration of his term of office,<sup>22</sup> viz., six years.
- (2) A Member of the Commission is ineligible for further employment either under the Government of a State, except that
  - (i) the Chairman of a State Commission is permitted to be the Chairman or a Member of the Union Commission, or the Chairman of any other State Commission;
  - (ii) a Member other than the Chairman of the Union Commission, is eligible for appointment as the Chairman of the Union Commission or as the Chairman of a State Commission; and

<sup>20</sup> Article 316 (2) of the Constitution of India. But the Members of the State Commissions retire at the age of 60 years. Several Members of the Constituent Assembly questioned the validity of this difference between the ages of retirement in the two cases.

<sup>21</sup> C.A.D., *op. cit.*, Shri J. R. Kapoor, 22nd August 1949, p. 582.

<sup>22</sup> 'Member' when used alone and is not followed or preceded by 'Chairman' stands for Member and Chairman.

- (iii) a Member other than the Chairman of a State Commission, is eligible for appointment as the Chairman of that Commission<sup>23</sup> or as a Member of the Union Commission or as the Chairman of that or any other State Commission.

The members of the Constituent Assembly hailed these provisions and held that they would provide a salutary check on both the Executive and the Members of a Commission. It was contemplated that these provisions will not only minimise the chance of the exercise of any patronage on the part of the Executive in the matter, either of giving continued employment in the same post, or in any other post, but also reduce any hope that might be held out for re-employment continuation in the same appointment by Members.

But the member of the Constituent Assembly who questioned the validity of the fixed term, also objected to the provisions that permit Members of a Commission to seek re-employment. If fortune favours the Chairman or a Member of a State Commission, or a Member other than the Chairman of the Union Commission, he can be in the service of one Commission or other "for any number of years till he reaches 65 years of age".<sup>24</sup> Therefore, he suggested that a Member's total period of employment in the different Public Service Commissions, should be fixed at a certain number of years. But the Drafting Committee seems to have been in agreement with the remark of another member of the Constituent Assembly: "There will be a different appointing authority for each Commission. Consequently, there need be no fear that a Chairman of a Public Service Commission in order to be appointed as Chairman of another Commission after completion

<sup>23</sup> Dr. Ambedkar's interpretation of the "prohibitory clauses" in regard to a Member other than the Chairman of a State Commission is not in consonance with the clause. Under the Draft and enacted Constitution, a Member of a State Commission is eligible to become the Chairman of that Commission on the expiry of his term. But in his speech Dr. Ambedkar equated a Member of a State Commission with the Chairman of the Commission, both being ineligible for further employment in the same State. He emphasised his interpretation of the clause by pointing this out as the underlying object of the provision.

<sup>24</sup> C.A.D., *op. cit.*, Shri J. R. Kapoor, 22nd August 1949, p. 581.

of his tenure of office, will be subject to any improper influence on the part of the Executive or will not discharge his duties with perfect independence."<sup>25</sup> Although what the second member sought to convey may not be absolutely true in certain circumstances, it is to the advantage of the country, as he himself remarked earlier that it should be able to use proved capacity in its service either by promotion within the Commission or by re-appointment to other Commissions.<sup>26</sup>

Two more implications of the "prohibitory clauses" may be noted. First, the ineligibility of the Chairman of the Union Commission is of a sweeping nature. For, unlike his counterparts in State Commissions, he cannot aspire to appointment to any "higher" Commission. Secondly, a Member of a State Commission is not eligible for appointment as a Member of any other State Commission—unlike the retiring Chairman of a State Commission who is eligible for appointment to a parallel post in other States.<sup>27</sup>

Apart from these exceptions involving the limited possibility of appointment to other Commissions, membership of a Commission imposes a twofold disqualification on any person who accepts it: (a) he cannot seek further employment in any other post (except those specified above) under the Central or State Government; and, (b) he is ineligible for reappointment to that office "on the expiration of his term of office". The restriction imposed under the first provision is unconditional and positive, irrespective of his serving the full or part of his term. But the restriction under the second provision is conditional. Thus a Member cannot be reappointed to that office on completing his term of office. Does this not mean that if he ceases to hold that office before the expiration of his term of office, he is eligible for re-appointment—contrary to the intention of the makers of the Constitution?<sup>28</sup>

Prohibition in regard to the continuation of Members on

<sup>25</sup> *Ibid.*, Pandit Hirday Nath Kunzru, p. 585.

<sup>26</sup> *Ibid.*, p. 584.

<sup>27</sup> *Ibid.*, Shri J. R. Kapoor, p. 581.

<sup>28</sup> This intention could have been better conveyed with the use of the phrase "on ceasing to hold office" in lieu of "on the expiration of his term of office" in clause (3) of Article 316.

the expiration of their term and their ineligibility for further employment under the Government, is not an innovation of the Constitution of India. It was the Madras Services Commission Act, 1929, which pioneered these "non-eligibility provisions". The Constitution of India is closer in this respect, to the Madras Services Commission Act, 1929, than to the Government of India Act, 1935. Indeed, in so far as the question of further eligibility of the retiring Chairman and Members is concerned, the Indian Constitution is a virtual reproduction of the Madras Services Commission Act, 1929 under which the Chairman and the Members of Madras Commission were debarred from holding office after they completed 60 years of age. Further, at the time of accepting the office of Chairman or Member of the Madras Commission, one had to give an undertaking in writing that he would not either during or after his service on the Commission, accept any other office under the Crown in India. The only exceptions to which the retiring Chairman and Members could aspire, were the chairmanship and membership of the Public Service Commission at the Centre.

Perhaps no other feature of the U.P.S.C. is so unique as the provision prohibiting the Members of the Commission from continuing in their offices, on the expiration of their term and debarring them from accepting any other post under the Central or State Government. As Dr. Ambedkar remarked : "One way of making them independent of the Executive is to deprive them of any office with which the executive might tempt them to depart from duty."<sup>29</sup> The ban was intended to be against not only offices of profit under the State, but also honorary offices, because, he added "pay is not the only thing which a person obtains by reason of his post. There is such a thing as 'pay, pickings and pilferings'. But even if it is not so, there is a certain amount of influence which an office gives to a person. And I think it is desirable to exclude even the possibility of such a person being placed in a post where, although he may not get a salary, he may obtain a certain degree of influence."<sup>30</sup>

<sup>29</sup> C.A.D., *op. cit.*, pp. 592-593.

<sup>30</sup> *Ibid.*, p. 593.

All this gives rise to the definition of the relationship between the intention of the authors of the Constitution and the constitutional provisions. In the domain of law, Government is under an obligation to adhere to the constitutional provisions only. This obligation has been exemplified in practice in a restricted sense. On the other hand, the intention of the authors of the Constitution that the Members of the Commission should be debarred from accepting not only public positions but also honorary offices, has not been carried out either at the level of the Central or State Government. Thus employment under Government has been interpreted as employment which is paid for by Government. Membership of the Legislature does not constitute employment under Government.<sup>31</sup> Besides, state undertakings, although they may be connected with the affairs of the Union, are not Government Departments in law. They are separate entities and, therefore, employment in such bodies, is not technically employment under Government. Accordingly, some states have appointed certain retired Members of their Commissions on statutory bodies. Likewise, the retired Members of the U.P.S.C. have accepted employment under similar bodies. All this will be contrary to the intention of the authors of the Constitution, particularly when the Members of the Commissions are not expected to accept even honorary offices.

Thus the "ideal" prescribed by the authors of the Constitution and attained to a limited extent, needs to be examined. Its essence is that there should be no room for anybody to suspect that the Members of the Commission may so modify their advice as to suit the convenience of the Government in the hope that he will be able to get some sort of reward afterwards by way of further employment. This postulate which is based on suspicion has been a subject of serious controversy. One detects an anomaly in the treatment of members of independent agencies by the Constitution. It may be asked : Why are the Judges of the Supreme Court and High Courts not subject to any such ban, when they are expected to function as independently

<sup>31</sup> This is obvious from Shri J. S. Pillai's election to Parliament on his retirement from the membership of the U.P.S.C.

as (if not more so than) the Members of the Commission? It appears that certain side-effects of the provision were not anticipated; for instance, a person who accepts the chairmanship of the U.P.S.C. must either be at the fag end of his public career with no favours or promotions to look forward to from Government or be in an occupation in which future government employment is of no interest to him. Sometimes in that case, it may be difficult to refute that the appointment of the Chairman of the Commission is "some sort of reward for retired men"<sup>32</sup> who are too old to cope with the ever-increasing arduous tasks of the Commission.<sup>32a</sup> It is also ungenerous to think that such persons hand-picked for their honesty and integrity will act in an impartial and independent manner only if they are prohibited from re-employment. On the other hand, inter-change of the personnel between the Commission and certain statutory bodies like universities and research institutes—which has now become a regular feature—is a happy development that deserves every encouragement in the public interest.

However, by fixing the term at six years and by banning re-employment, the advantages inherent in the principle of permanent term are sought. This object can be fully attained and at the same time several of the above objections can be met if

- (i) the term is raised to a longer period, say, 10 years; and
- (ii) persons who are more than 55 years of age will not be qualified for the membership of the Commission.

Indeed the six-year term is too short for a Member to be of any effective service after deducting the first year or so like the final year, when the Commission cannot for various reasons extract real benefit from him. Moreover, a longer term is desirable with the emerging variegated character of the public service demanding professional skill in the recruitment of personnel, which can be acquired over a period of time.

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<sup>32</sup> Cf. Shri J.J. Krishnamachari's remark, *The Statesman*, May 7, 1965, p. 5, Col. 4.

<sup>32a</sup> Under the existing arrangement, persons of the highest public standing below 58 years of age are reluctant to be considered as Members of the Commission, 65 years being the age of retirement.

### 3. REMOVAL AND SUSPENSION OF THE MEMBERS

Elaborate legal provisions are made to secure the independence of the Members of the Commission not only by keeping them free from any hope of further executive patronage, but also by providing security of tenure. The Constitution of India has envisaged two circumstances when a Member of the Commission ceases to hold office, apart from his right of resignation. In the first, the initiative lies with the President to take steps for his removal, while, in the second, the Member ceases to hold office by automatic disqualification.

Under the first arrangement, a Member of the Commission is removable from office by order of the President on proof of misbehaviour. The Supreme Court, on a reference by the President will hold an inquiry in accordance with prescribed procedure.<sup>33</sup> Orders are not issued by the President for a Member's removal unless the Supreme Court reports that he ought to be removed on grounds of misbehaviour. The President may, however, suspend a Member of the Commission in respect of whom a reference has been made to the Supreme Court until he has passed orders following the receipt of the Court's report. The makers of the Constitution merely adopted the procedure for removal prescribed for Judges of the Federal Court and the High Courts under the Government of India Act, 1935.<sup>34</sup> As Dr. Ambedkar pointed out in the Constituent Assembly, the intention was to give Members of the Commission the security and protection enjoyed by Judges of the Federal Court and the High Courts.

Clause (4) of Article 317 defines misbehaviour of a Member of the Commission as when he "is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Government of India or the Government of a State or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company..."

The Constitution also deals with three conditions of

<sup>33</sup> Article 145 (i) of the Constitution of India.

<sup>34</sup> C.A.D., *op. cit.*, vide Dr. Ambedkar's speech, p. 575.

automatic disqualification : (i) adjudged insolvency; (ii) engagement in any other employment; and (iii) infirmity of mind or body. In these circumstances, formal orders for removal from office are issued by the President when, in his opinion, the Member is found unfit to continue in office.

#### 4. CONDITIONS OF SERVICE OF THE MEMBERS

"The only matter affecting the Commission", remarked the U.P.S.C. in its First Annual Report, "which the Constitution has left to be determined by means of regulations to be framed by the President is the number and conditions of service (that is to say, scales of salary, travelling allowance and leave rules, etc.) of Members of the Commission and also of the staff of the Commission". Although this provision is a legacy of the Government of India Act, 1935, the Constitution has guaranteed certain conditions of service of a Member during his tenure when it says that the conditions of service "shall not be varied to his disadvantage after his appointment". This is a definite improvement on the Government of India Act of 1935.

The Chairman and each of the Members receive a salary of Rs. 3,500 and Rs. 3,000 per mensem respectively. A member of the Indian Civil Service appointed to the Commission, draws a personal pay of Rs. 500/- in addition.<sup>35</sup>

No pension attached to the office of Member until July, 1964. However, there has been provision for the protection of the pension and provident fund rights of the Members who immediately before the date of their appointment were in government service.<sup>36</sup> Since July 1, 1964 Members who were not in government service at the time of their appointment, are also entitled to pension benefits as prescribed under the U.P.S.C. (Conditions of Service) Regulations amended in August, 1964 with retrospective effect from July, 1964. Also they

<sup>35</sup> In addition to I.C.S. officers, officers on old rates of pay viz., pre-1931 entrants are also entitled to a personal pay of Rs. 500/-.

<sup>36</sup> Certain States have also made a provision of pension for the non-official Members of the Public Service Commission after their retirement, for examples, Bihar, Orissa, Madhya Pradesh, Rajasthan, Maharashtra and Gujarat.



lay down the conditions as to when a Member would not be entitled to pension. No pension will be payable to a Member who has not completed three years of service or who has been removed from office as Member. Further, he will not be paid any pension during any period for which he may, after his retirement as such, hold office as the Chairman of a State Public Service Commission.

Pay and other conditions of service of Members are important not only in attracting men of the highest calibre but also in securing independence and impartiality in the discharge of their duties. This is consistent with the constitutional intention of conferring on the Commission independent status, distinctly higher than that envisaged in the pre-Republic period. It may be pointed out here that the advice of the Lee Commission that the emoluments of the Members of the Public Service Commission should not be less than those of the High Court Judges has not been followed.<sup>37</sup>

## 5. ORGANIZATION OF THE COMMISSION

The traditions of the British Civil Service Commission during the pre-Republic period, continue to exercise considerable influence on the operations of the U.P.S.C. But unlike its predecessors, it enjoys more latitude and freedom in the conduct of its business. The Secretary of State and the Governor-General framed rules for the conduct of the business of the Commission under the Government of India Act, 1919, and the Government of India Act, 1935, respectively; now the U.P.S.C. frames its own rules.

The Chairman is the head of the organisation. No extraordinary functions have been assigned by the Constitution to the Chairman. He presides over the meetings of the Commission when it sits as a body, and exercises the normal functions

<sup>37</sup> The Constitution specifies in its Second Schedule Part D that the Chief Justice and the Judges of the High Court of each State shall be paid at the rates of 4,000 and 3,500 rupees per mensem respectively. While the Chief Justice and the Judges of the Supreme Court under the same Schedule draw 5,000 and 4,000 rupees per mensem respectively, the Comptroller and Auditor-General of India receive a salary at the rate of 4,000 rupees per mensem.

of the Chairman of a meeting. While every question is determined by a majority of votes of the Members, present and voting, the Chairman has a second or casting vote when the division of votes is equal.

The Commission functions mostly through Committees. The Committees communicate all their conclusions to the Chairman before any action is taken thereon. The Chairman is thereupon to direct whether such conclusions should be referred to a meeting of the Commission for further consideration and decision. This provision saves time by limiting the number of cases which comes before the full Commission.

In the internal administration of the Commission the Chairman acts as the head of the "Department" and the Secretary, the head of the office. Thus appointments of the superior secretariat staff are made by the Chairman, while those in the lower rungs by the Secretary. All decisions of the Commission are recorded by the Secretary and communicated by him on behalf of the Commission to outside agencies.

A distinctive feature of the transaction of day-to-day business of the Commission is that it does not (and perhaps cannot), delegate its functions to the officers of its Secretariat. While in Government administrative agencies, decisions are arrived at on behalf of the President at various levels of the administrative hierarchy, no decision can be taken at any level in the Commission's Secretariat. Cases which involve the exercise of discretion are disposed of either by the Commission or by individual Members. For instance, in preparing a short list of better qualified candidates for recruitment through interview, the role of the Secretariat staff is that of a statistician. In weeding out lesser qualified candidates, a Member decides the process of elimination. The staff assist him by compiling the data about each candidate and by acquainting him with the rules and procedure of the Commission.

## 6. THE STAFF OF THE COMMISSION

As referred to above, under the Constitution the President makes provision in respect of the number and conditions of service of the staff of the Commission. Certain members of

the Constituent Assembly, as referred to earlier, regarded this provision as of far-reaching effect. Thus a member argued that this power should be placed directly in the hands of the Commission. He affirmed that the nature of the functions of the Commission are such that it should be given the same freedom as allowed by the Supreme Court and the High Courts in connection with the appointment of the members of their staff.<sup>38</sup>

Dr. Ambedkar who disagreed with the member, explained the reason why there should be a deviation from the position taken in regard to the staff employed under the High Courts, the Supreme Court and the Auditor-General. His contention was that the upper echelons of the staff of the Judiciary were required to exercise a certain amount of judicial discretion. Consequently, all matters relating to their appointment, conditions of service, etc., were left to the Chief Justice. "In the case of the Public Service Commission" he held, "much of the staff—in fact the whole of the staff—will be merely concerned with what we call 'ministerial duties' where there is no authority and no discretion is left."<sup>39</sup>

However, when it actually came to staffing the Commission's Secretariat, the Executive, with wisdom and restraint, so framed the regulations as to acknowledge the special status and independence of the Commission. Unlike the administrative agencies of the Government of India, the Commission acts as an employing authority in relation to its staff. All appointments, especially of the superior staff in the Commission's office are, therefore, to be formally made by the Chairman of the Commission.

Since the Secretariat staff of the Commission was amalgamated with the staff of the Secretariat of the Central Government, it is drawn from common personnel sources. Offering its comments on the staff amalgamation scheme in its Second Annual Report, the Commission remarked: "The Commission will still select and appoint the personnel for each post but the personnel will be obtained ordinarily from the common pool of the Secretariat Service and members of the staff of the Commission will be eligible for promotion to higher posts not only

<sup>38</sup> C.A.D., *op. cit.*, vide Kunzru's speech, pp. 582-583.

<sup>39</sup> C.A.D., *op. cit.*, vide Dr. Ambedkar's speech, p. 593.

in the office of the Commission but also in the Central Secretariat. This system has certainly improved the prospects of the members of the staff of the Commission and it is expected that this improvement in their status and prospects should now have an invigorating effect on their work and morale."<sup>40</sup>

While the permanent staff of the Commission consists of a Secretary and such other officers and employees as the President may from time to time determine, the Chairman of the Commission may sanction the creation of certain temporary and permanent posts on the staff of the Commission to the extent and subject to the conditions laid down in the U.P.S.C. (Staff) Regulations, 1958, and a notification of the Ministry of Home Affairs of May 21, 1963.

On January 26, 1950, the senior Secretariat staff of the Commission consisted of a Secretary of the status of Deputy Secretary to the Government of India, a Deputy Secretary (of the status of Under Secretary to the Government of India) and four Assistant Secretaries. In the first year of the inauguration of the Constitution, the Commission's Secretariat and office staff were reinforced at its request. It was determined that the Commission should have a Secretary of the status of Joint Secretary to the Government of India, two Deputy Secretaries of the status of Deputy Secretary to the Government of India and six Under Secretaries.<sup>41</sup> The expansion of the Commission's activities during 1950-1963 is evident from the growth of the staff:

TABLE NO. 1  
Growth of the Commission's Staff

	26th January 1950	31st March 1951	31st March <sup>41a</sup> 1961	1963
<b>I. Gazetted</b>				
1. Joint Secretary's rank	—	1	1	1
2. Deputy Secretary's rank	1	2	6	7
3. Under Secretary's rank	1	6	17	20
4 Others	5	13	46	49
	7	22	70	77
<b>II. Non-Gazetted</b> (including peons, farashes, and other Class IV employees)	237	273	609	631
<b>Total of I &amp; II :</b>	244	295	679	708

<sup>40</sup> The Second Report of the U.P.S.C., 1951-1952, para 4.

<sup>41</sup> First Report of the U.P.S.C., 1950-1951, para 7.

<sup>41a</sup> Roughly 1961-63 is the first half of the Third Five Year Plan period.

The Secretary is appointed by the Commission for a fixed tenure, which may be extended. He receives the same pay and is subject to the same conditions of service as a Joint Secretary to the Government of India. The Deputy Secretaries and Under Secretaries are appointed by the Commission from amongst officers approved for appointment to the posts of Deputy Secretaries and Under Secretaries to the Government of India respectively.

A distinction may be made between the technical staff and the Secretariat staff of the Commission. While the Secretariat staff are borrowed from the All-India and Central Services, the technical staff are recruited and appointed direct by the Commission itself. Their pay and allowances and other conditions of service are similar to those of corresponding grades in the Central Secretariat.

The internal office organisation of the Commission has changed from time to time to meet its administrative requirements. As it stands today, the office is organised in Branches. The Secretary co-ordinates the activities of the Commission's office, as a whole.

The Commission was first housed in 1926, in Metcalf House, at Delhi. The Commission along with its office staff moved to Simla in the summer, like other offices of the Government of India. In 1938 the regular move to Simla was stopped, but a camp office of the Commission continued to go there. In November 1941, it was decided to shift the Commission's office from Delhi to Simla on a long-term basis, and in winter the camp office came down to Delhi. It was not until March 1948, that the Commission was shifted back to Delhi permanently. First accommodated in Parliament House, it has, since April 1952, been housed in Dholpur House.

## 7. RELATIONS WITH THE STATE PUBLIC SERVICE COMMISSIONS

As an adjunct to this Chapter, it is intended to examine how the U.P.S.C. is related to State Commissions. It was under the Government of India Act, 1935, that provision was first made for the creation of Provincial Commissions. Among the State Commissions the Madras Service Commission is the oldest,

having been created in 1929 by an Act of the Madras Provincial Legislature. The provisions relating to State Commissions in the Constitution of India bear the stamp of the corresponding provisions of the Government of India Act, 1935.

Although both the Union and the State Commissions flow from a common source—the Constitution of India—no constitutional or formal link exists between them. However, the area of concern of the Union Commission extends to that of a State Commission if so desired by the Governor of the State concerned with the approval of the President.<sup>42</sup>

The fact that the Union and the State Commissions have certain common problems which can be dealt with to their mutual benefit, assumed concrete shape in 1948. It was in that year that the Chairmen of the Union and State Commissions met in conference to consider the provisions of the Draft Constitution of India and put forward their recommendations to the Constituent Assembly. The contact between them has grown closer and more frequent in recent years. The first of these conferences since the inauguration of the Constitution, was held in January 1953, to discuss matters of common interest in the light of the experience of the Commissions under the new Constitution.<sup>43</sup> Some of the important recommendations of this Conference in which the Chairmen and representatives of the State Commissions participated were brought to the notice of Government.<sup>44</sup> The second and third conferences were held in January 1958, and March 1961 respectively.

All the three conferences were convened by the Union Commission in New Delhi. Owing to lack of constitutional basis for such conferences, inter-Commissions consultations have been strictly informal almost on a personal level. Further, the proceedings of these conferences have been regarded as informal and confidential. It was decided in the Conference of 1961 that, as far as possible, such conferences should be held once in two years, and that in the interval such meetings on a regional basis, should be held.

The conferences of the Public Service Commissions serve a

<sup>42</sup> Vide Article 315 (4).

<sup>43</sup> Vide Third Report of the U.P.S.C., 1952-1953, para 8.

<sup>44</sup> Vide Fourth Report of the U.P.S.C., 1953-1954, para 8.

very useful purpose. With the changing pattern of administration of a developing welfare state calling for larger manpower requirements, the increased tempo of recruitment requires more frequent consultation between the Union and the State Commissions for interchange of views and pooling of experience. For instance, the State Commissions and the State Governments may educe from the convention established at the Centre that the Union Commission is consulted in all matters to be excluded from its purview. Similarly, the measure to check violations of the statutory requirement of consultation with the Commission in temporary appointments undertaken in Andhra Pradesh, offers a useful example for the sister Commissions.<sup>45</sup> Further, such conferences help to evolve uniform standards of approach and working procedures in the Commissions throughout the country—which is desirable especially when the Constitution envisages a single pattern for both the Union and State Commissions and when both perform functions of similar character.

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<sup>45</sup> Details in regard to this device have been given in "Temporary Appointments" in a chapter on "Discipline and other Service Matters".

## CHAPTER IV

# FUNCTIONS AND LIMITATIONS OF THE U.P.S.C.

### 1. CONSTITUTIONAL AND THEORETICAL BASES

The U.P.S.C. is the best known of the statutory commissions designed under the Constitution of India. But its statutory position combined with the Executive's adherence to the original objective of creating a Public Service Commission—for independent and impartial consideration of service matters—has made it somewhat difficult to define its place within any systematic theory about the organisation of the national Government. Its position in the general structure of the national Government is peculiar. It both is and is not a part of the public personnel administration.

As referred to earlier, the services at the Centre are under the remote constitutional control of Parliament. The President of India is charged with their management. All powers in respect of their management, have actually been distributed between the Appointments Committee of the Cabinet, the Ministry of Home Affairs, the U.P.S.C., the Departmental Selection Boards, Establishment Offices and the Ministry of Finance. The higher classes of the Union Services are handled centrally, while the management of the lower classes—the bulk of Class III and Class IV—is decentralized. All recommendations for Secretariat appointments of the rank of Deputy Secretary and above and for other appointments carrying a salary of Rs. 2,000 and above, are considered by the Appointments Committee of the Cabinet. The day-to-day management of the higher services is entrusted to the Establishment Division of the Ministry of Home Affairs. However, recruitment to the bulk of the All-India Services and of Class I and Class II of the Central Services and advice on service matters such as promotion, transfer, re-employment, discipline, etc., are the primary responsibility of the U.P.S.C., while most service matters pertaining to the bulk of Class III and Class IV are managed by the Ministries



administratively concerned.

The U.P.S.C. occupies a unique position among these personnel agencies. It is no accident that the provisions dealing with the U.P.S.C., have been laid down in a separate chapter of the Constitution. With this constitutional basis for independent operation, the Commission may not be regarded as an "arm" of the Executive, as is any of these agencies or a programme agency. Further, the constitutional provision enjoining the Commission to make an Annual Report to the President to be placed before Parliament, explaining the reasons for non-acceptance of the Commission's advice, is tantamount to giving the Commission the right of appeal to Parliament against Executive action.

Nor is the Commission an "arm" of the Legislature in the sense that the Audit Department is. The Audit Department keeps its ear to the wall of the Parliament House "to hear the slightest murmur" from the Lok Sabha or the Rajya Sabha. It is generally considered to be an attachment to the legislative branch of the Government and its head, the Comptroller & Auditor-General, recognises Parliament as his principal.

The Members of the Commission however, can hardly escape attaching some significance to the fact that their number can be varied by the President and the complexion of the Commission thereby, is determined by him. It is also at the instance of the President that Parliament may reduce the scope of the Commission's functions. Moreover, a major part of the Commission's work comes to it from the Executive.

Likewise, a close study of the constitutional provisions reveals that all the levers of ultimate power are in a sense, in the hands of Parliament. The exercise of governmental authority in relation to the Commission which under the Government of India Act, 1935, was heavily weighted in favour of the Executive (as personified by the Secretary of State for India and the Governor-General), has been tilted in favour of the Legislature by the Constitution of India. Thus Parliament may modify any constitutional provision with the approval of a simple majority of those present and voting. All regulations issued by the President specifying matters to be excluded from the purview of the Commission are required to be laid before Parliament for

its approval. In addition, Parliament provides for the exercise of additional functions by the Commission.<sup>1</sup> Also, it is the ultimate recipient of the Commission's Annual Reports.

All this suggests that the U.P.S.C. has been provided with constitutional safeguards to guarantee its independent and impartial status. This is in part, in accordance with what James Watson calls the "protectionist" school of thought,<sup>2</sup> according to which politicians cannot be trusted and must be kept at arm's length from a civil service agency. In order to ensure the elimination of political abuses, it has been organised independent of and largely external to the administrative hierarchy. The thesis of this chapter is that notwithstanding the incorporation of the view of the "protectionist" school, the Commission has potentialities as the management "arm" of the Chief Executive—what Watson calls the "management" school of thought according to which management of services is the "direct executive responsibility". In other words, an effort is made to investigate as to how far the need for independent consideration of service problems is balanced with the ultimate responsibility of the Executive for the management of the public service.

## 2. FUNCTIONS OF THE COMMISSION

The functions of the U.P.S.C. (together with its limitations) are more or less a facsimile of those of the Federal Public Service Commission. Article 320 of the Constitution is derived from its counterpart in the Government of India Act, 1935 in terms of objectives and purposes and even in arrangement and language. An exception is the provision regarding the manner in which any matter can be excluded from the Commission's purview, appearing in clause (3) of Article 320. All regulations made by the President specifying the matters in which it is not necessary for the Commission to be consulted are to be laid for

<sup>1</sup> This does not require prior formal sanction of the Executive as was a legal necessity under the Government of India Act, 1935.

<sup>2</sup> Report of the Special Consultant to Committee on Administration of the Civil Service, Eighty Five Congress, 1st Session (Washington: Govt. Printing Offices 1957), p. 45.

not less than fourteen days before each House of Parliament for approval. But the Government of India Act, 1935 empowered the Secretary of State and the Governor-General in his discretion to make regulations specifying those matters respecting services and posts which were to be excluded from the purview of the Federal Public Service Commission.

*(i) Sources of its Functions :*

Clause (1) of Article 320 requires the Commission to conduct examinations for appointments to the services of the Union. Clause (2) enjoins that it will, if requested by any two or more States, assist those States in framing and operating schemes of joint recruitment for any services for which candidates possessing special qualifications are required. Clause (3) requires the Commission to tender advice on matters (both specified and unspecified in the clause) referred to it by the President.

Besides the Constitution of India, the other sources from which the U.P.S.C. derives its functions are :

- (i) legislative enactments;
- (ii) rules, regulations and executive orders; and
- (iii) conventions.

Parliament may pass legislation under Article 321 extending the functions of the U.P.S.C. as regards the services of the Union or the States. Through an Act, Parliament may also provide for the exercise of additional functions by the Commission in respect of the services of any local authority or other corporate body constituted by law or any public institution. For instance, the Territorial Councils Act, 1956 and the Delhi Municipal Corporation Act, 1957, passed by Parliament under Article 321 of the Constitution,<sup>3</sup> contain provisions for recruitment to the higher posts by the Commission.

The source of executive orders and regulations is Article 318 and clause (3) of Article 320 and the proviso under it. The President may define from time to time through regulations, the matters in which the Commission need not be consulted. However, all such regulations that specify "the matters in which either generally, or in any particular circumstances, it shall not be necessary" for the Commission to be consulted, are to be

<sup>3</sup> Annual Report of the U.P.S.C., 1957-58, para 5.

approved by Parliament. Executive references may be made as intended under Article 320, with a view to associating the Commission with service matters. For instance, it was under an executive order issued in 1946 that the Departmental Promotion Committees were established in various Ministries and Departments and the Commission's advice was sought in matters like grant of extension of service to retiring officers. Provisions in regard to grant of extension involving the Commission's concurrence were withdrawn in 1954. Neither after the inauguration of the Constitution nor at the time of the withdrawal of this executive order, was Parliament approached for approval.

Finally, the Commission discharges certain functions that are not stipulated in the Constitution. Under the Constitution, recruitment to the Defence Forces is outside the purview of the Commission, for the defence service is not a part of the civil service. The written examination for cadets of all the Wings of certain Defence Forces, undertaken in 1949 at the request of the then Defence Department, has now become a regular feature of the Commission's activities.<sup>4</sup> Similarly, the Commission's association with the selection of temporary officers for the pool of highly qualified scientists and technologists is an extra-constitutional function. Persons appointed to the pool may be seconded to Central Government and to state industrial enterprises, national laboratories, universities, scientific institutions, or industrial establishments in the private sector.<sup>5</sup>

*(ii) Types of Functions :*

The duties of the U.P.S.C. fall into three main categories. They may be designated as executive, regulatory and quasi-judicial.

*(a) Executive :* Subject to the U.P.S.C. (Exemption from Consultation) Regulations, the Commission is primarily responsible for making selections to those public positions which are created or fall vacant from time to time. It may use its vantage point to "keep the rascals out" by insisting upon open competition, with a view to securing the best available candidates for the public service. It advertises all over India such vacancies as are

<sup>4</sup> Sixth Report of the U.P.S.C., 1955-56, para 13.

<sup>5</sup> Ninth Report of the U.P.S.C., 1958-59, para 20.

intimated by the Government and selects suitable candidates through competitive examinations in Delhi and elsewhere. It also establishes the order of rank of candidates.

In relation to its own office Secretariat, the Commission, as referred to earlier, exercises certain executive powers. The Chairman of the U.P.S.C. selects and appoints the senior officers of the Secretariat, i.e., Secretary, Deputy Secretaries and Under Secretaries. He may make certain temporary and permanent appointments in the office, subject to budgetary provisions.

(b) *Regulatory* : The regulatory and quasi-judicial functions are of an advisory nature. The Commission tenders advice on matters relating to (i) methods of recruitment, and (ii) the principles to be followed in making appointments, promotions and transfers from one service to another and the suitability of candidates for such appointments, promotions or transfers. Thus the Commission assists the Ministries and the Departments in framing Recruitment Rules, drawing up lists having regard to duties. This involves determining qualifications, age and experience requirements and methods of recruitment.

(c) *Quasi-judicial* : The Commission has been accorded a status close to the Judiciary as its functions involve the exercise of judicial discretion in certain matters. Thus it advises on :

- (i) all disciplinary matters affecting civil servants working under the Government of India, including memorials or petitions relating to such matters ;
- (ii) any claims by an officer that Government should bear the cost of his defence in legal proceedings instituted against him in respect of acts done in his official capacity; and
- (iii) any claims for the award of a pension in respect of injuries sustained by a servant while serving Government and any question as to the amount of any such award.

(d) *Annual Reports* : It is "the duty of the Union Commission to present annually to the President a report as to the work done by the Commission and on receipt of such report the President" causes "a copy thereof together with a memorandum explaining, as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such

non-acceptance to be laid before each House of Parliament".<sup>6</sup>

It may be mentioned here that it was the Madras Services Commission Act, 1929 which for the first time, prescribed the consideration of the Provincial Commission's Annual Report by the Provincial Legislature. But the Government of India Act, 1935 did not require the submission of any report either by the Federal Public Service Commission or by the Provincial Public Service Commissions to the Federal or Provincial Legislatures, as the case may be. The Federal Public Service Commission, however, prepared its first annual report in 1943, which remained unpublished.

The U.P.S.C.'s reporting is in keeping with a standard practice in supervision. It fulfils the requirement of operating units and advisory bodies to submit periodic or special reports about their activities. Its Reports, by and large, serve two important objectives of administrative reporting : as an instrument of management; and as a democratic device. The first seems to have a direct bearing on the Commission's relationship with the President. Thus the Commission's Reports seek to ensure free and systematic flow of information about certain important service matters to aid the President in effective policy formulation, execution and co-ordination. Without such Reports, the President and the political officers of the Government would be working in the dark, making uninformed decisions. The constitutional requirement of the Commission's submission of its Annual Report to the President is the only realisation that it is a component part of a single administration, and that its activities together with those of the operating agencies are interrelated.

The Reports as a democratic device, seek to ensure the Commission's responsibility to Parliament and to the citizen in view of their ultimate discussion in Parliament and the resultant publicity.

<sup>6</sup> The Constitution of India, Article 323 (1). In Australia the Boyer Committee which was appointed to inquire into and report upon recruitment methods recommended a similar provision. The Federal Government turned down the suggestion for it held that this provision "was perhaps an over-theoretical approach to the matter" (Commonwealth of Australia, Parliamentary Debates, Hansard) Twenty Third Parliament, Second Session, House of Representatives, 15th-17th November 1960.

While the Commission gives a general survey of its work in its Reports, it deals at length, with those cases in which its advice was not accepted. It mentions cases of irregular appointments. Parliamentary discussion in this respect, serves as a useful safety-valve, and even more as a convenient medium through which the official answers to complaints are disseminated. It also tends to prevent some flagrant abuses and successfully to insist on particular short-comings being remedied. Indeed, publicity is one of "the surest of all guards against improbity".

### 3. LIMITATIONS OF THE COMMISSION'S FUNCTIONS

(a) *Constitutional* : Limitations have been imposed on the U.P.S.C. in two directions :

(i) reservations of appointments referred to in clause (4) of Article 16 and in Article 335; and

(ii) exclusion of posts or services from the purview of the Commission through Regulations made by the President under the proviso to Article 320 clause (3) with the approval of Parliament.

The first two clauses of Article 16 confer on all citizens the right to equality of opportunity in matters of public employment. Thus no citizen will on grounds of religion, race, caste, sex, descent, place of birth, or residence only, be ineligible for or discriminated against in respect of any employment or office under the State. The U.P.S.C., as a recruiting and advisory agency in service matters, is, therefore, governed by the principle of open competition implied by these two clauses. But clause (4) of the Article allows the Government of India to make provision for the reservation of appointments or posts in favour of any backward class of citizens, without reference to the Commission.

Together with clause (4) of Article 320, Article 335 provides another limitation on the Commission. Article 335 requires the Government of India to take into consideration the claims of members of the Scheduled Castes and the Scheduled Tribes, consistent with the maintenance of efficiency of administration, in the making of appointments. The Government of India may not consult the Commission as per clause (4) of Article 320 in



regard to the manner in which effect may be given to the claims of the members of the Scheduled Castes and the Scheduled Tribes in the making of appointments to services and posts of the Union. However, once the conditions are laid down about the manner in which their claims may be met, the Commission enjoys full freedom in applying the usual tests and standards for selection.

*(b) The U.P.S.C. (Exemption from Consultation) Regulations :*

In addition to these limitations, the Constitution under clause (3) of Article 320 authorises the President to make regulations excluding matters from consultation with the U.P.S.C. Although this Article of the Constitution is more or less a reproduction of Section 266 of the Government of India Act, 1935, a major drafting change has been introduced. Thus in the Government of India Act, 1935, the provision relating to the exclusion of matters from the Commission's purview was a substantive part of the Section, and consultation with the Commission was expressly stated to be subject to the exclusion Regulations. In the Constitution, however, the position is reversed and the Regulations are provided as an exception to the provision for consultation laid down in clause (3) of Article 320. The change is significant.

The Consultation Regulations passed in 1937 under the Government of India Act, 1935 were modified and adopted in the wake of Independence. These Regulations have virtually remained in effect to date, although they were renamed "Union Public Service Commission (Exemption from Consultation) Regulations, 1958" and promulgated on September 1 of that year. They were approved with a few changes by Parliament in the same year.

The scope of the Commission's operation has been limited by the President in a number of ways. These orders apply not only to non-competitive posts and services, but also to certain posts for which the Commission may hold competitive examinations. There are also certain ancillary orders relating to disciplinary cases which have been kept outside the purview of the Commission.

<sup>7</sup> See Appendix No. 1 for the Regulations. Government, 1959, p. 277.



(i) *Services and Posts Excluded*<sup>8</sup> :(a) *Non-Competitive Type* :

The first category of excluded posts which are of a non-competitive type are such positions as membership or chairmanship of tribunals, commissions or high-powered committees created for any enquiry or for advising the Government on matters of great public concern. Although the Executive possesses full discretion in filling such positions, public opinion dictates that the appointments should be on the basis of demonstrated capacity.

Secondly, there are positions of a "confidential" or high "policy-determining" character, *e.g.*, heads of diplomatic, consular, or other Indian Missions in countries abroad; and posts such as private secretaries or personal assistants. The idea is to give the appointing officer a free hand in the choice of those on whose close assistance he depends. Such political appointments increasingly necessitate personal fitness.

Thirdly, there are posts of a highly technical and administrative nature, the qualifications for which are such that only a few persons possess them. They may relate to very senior posts reserved for Class I or All-India Service officers. The underlying idea for the exclusion of these posts seems to be that political chiefs should have sufficient latitude in picking up their associates, provided that the area of selection is confined to the career service.<sup>9</sup> This restriction to the career service has served to give continuity in top management, besides providing high positions to which the career employee may aspire. If the political chief finds he cannot work well with a principal subordinate drawn from the service he can transfer him and

<sup>8</sup> Muttalib, M.A., "The Indian Union Public Service Commission", Public Administration, Journal of the Royal Institute of Public Administration, Winter 1964, Vol. 42, pp. 380-383.

<sup>9</sup> B. Chapman regards the second and third type of posts as posts of confidence, categorising the second as "strategic" and the third as "protective". Through the strategic posts the government of the day implements its particular programme and through the protective posts, the *status quo* is maintained and any violent change not sanctioned by the government, is prevented. See, Chapman, B., *The Profession of Government*, 1959, p. 277.

select another civil servant of his choice, although this power is exercised very sparingly.

Fourthly, the Commission is not consulted in regard to selections for appointment which do not involve the question of promotion or unbiased selection. They relate to

- (a) a post included in an All-India Service or any officer who is already a member of an All-India Service ;
- (b) a post included in a Central Service Class I, or any officer in the Armed Forces of the Union or any officer who is already a member of an All-India Service or a Central Service Class I ;
- (c) a post included in Central Service Class II, or any officer who is already a member of a Central Service Class III, or of any officer in the Armed Forces of the Union; and
- (d) a tenure post included in a Central Service Class I, or a Central Service Class II, or an officer of a State Service.

Where selection to these posts involve promotion from lower to higher post, resort to the above regulation is restricted only to such cases where Recruitment Rules have been framed in consultation with the Commission.

*(b) Competitive Type :*

To the competitive type of posts excluded from the purview of the Commission, belong three different classes of posts. First, the largest number relates to Class III, Class IV employees and workshop workers, etc. (who constitute about 98% of the total number of the Central Government employees).<sup>10</sup> However, the Commission holds examinations for recruitment to a very small fraction of Class III posts. While the exclusion of the Commission from general supervision over the bulk of Class III and Class IV services is to lighten the load of work of the Commission, it tends to compromise the basic objective of the

<sup>10</sup> In 1957 for instance, out of 1.8 million employees of the Central Government there were about 10,000 Class I and 20,000 Class II employees constituting 1.6% of the total employees. Vide the Second Pay Commission, *op. cit.*, Chapter III, Table II. On March 31, 1963 out of 22,00,637, class I were 14,585 (.66%) and class II were 29,050 (1.3%) employees.

creation of the Commission to free all appointments to the public service as far as possible from political or personal influences.

Secondly, part-time, temporary or officiating positions have often been exempted, where the person appointed is not likely to hold the post for a period of more than one year, and it is necessary in the public interest to make the appointment immediately and a reference to the Commission may cause undue delay. Such appointments have to be reported as soon as they are made, especially when the appointment is likely to continue beyond a period of six months. If it is to continue for more than one year, the Commission should be consulted on filling the post.

Finally, in the exempt-class are those types of posts which do not belong to the Executive Government but to the other two branches of Government, i.e., the Legislature and the Judiciary. Thus posts attached to the Secretariats of the Houses of Parliament and the posts of judicial character in the centrally administered areas, are outside the purview of the Commission. The Commission has agreed to their exclusion as its area of responsibility is confined to matters relating to the Executive Government only.

Before 1946, a defunct clause of Regulation 4 also dealt with appointments in connection with the war emergency, for which the then Commission was not required to be consulted by Government. Nor was it necessary to consult it regarding the retention of persons already appointed under the same Regulation in a temporary capacity. This provision was revived immediately after the proclamation of the state of emergency in the wake of the Chinese aggression in 1962. This provision was intended to enable posts expressly created in connection with the emergency, being filled without the Commission being consulted.

#### (ii) *Disciplinary Matters Excluded :*

According to Regulation 5 it is not necessary to consult the Commission in regard to the making of any order in any disciplinary case other than those specified.

The penalties which are listed in the Central Civil Services (Classification, Control and Appeal) Rules, are of a severe

nature and, therefore, in the interest of justice they can be imposed only in consultation with an independent statutory agency of a semi-judicial character.<sup>11</sup>

It is not necessary to consult the Commission in regard to any disciplinary matter affecting a person belonging to the defence service (civilian). This exclusion is justifiable because of the special nature of the service. Likewise, it is not also necessary to consult the Commission in regard to any order made under the Central Civil Services (Safeguarding of National Security) Rules, 1953, or the Railway Services (Safeguarding of National Security) Rules 1954.

#### 4. RELATIONS BETWEEN THE COMMISSION AND THE EXECUTIVE<sup>12</sup>

The foregoing discussions relating to the functions and limitations of the Commission give rise to two basic issues involving Executive-service-agency relationship. If the Commission is essentially an advisory body, what sanction is there that its advice, when it is sound and expert will, in fact, be accepted by the Executive? Secondly, might it not defeat the very object of having the Commission at all, if the Executive freely resorts to the exclusion of matters from the purview of the Commission? The Commission itself has on occasion, voiced these fears. In its very First Annual Report it said, "The Commission do not consider that the retention of all these limitations on their functions is justified in a democratic republic. The Commission's proposals have...sought to confine the limitation of their functions to what is considered to be the minimum necessary in the public interest". It urged in its First and Second Reports that some statutory safeguards should be provided by Parliament to minimise the possibility of an increase in the number of cases in which Government may seek to depart from the advice of the Commission. It commended for example, the adoption of a provision similar to the Superannuation Act of 1859 in the United Kingdom under which no civil servant can draw a

<sup>11</sup> For a detailed discussion of this aspect of the Commission's functions see the chapter on "Discipline and other Service Matters".

<sup>12</sup> Muttalib, M.A., "The Indian Union Public Service Commission", *op. cit.*, pp. 383-388.

pension unless he can produce a certificate that his appointment had been made with the concurrence of the Civil Service Commission.<sup>13</sup>

The situation, however, has improved with the growing sense of mutual trust. The prevalence of certain established conventions needs special mention. Except for a very few sporadic cases, the Commission is invariably consulted by the President before any service matter is excluded from its purview. In fact, the existing U.P.S.C. (Exemption from Consultation) Regulations were framed in consultation with the Commission,<sup>14</sup> although the President was under no constitutional obligation to do so. Similarly, the advice tendered by the Commission is normally accepted by the Ministries and Departments under a well-established tradition. But where the advice is considered unacceptable by a Ministry, each side tries to convince the other. If the reasons advanced by the Ministry do not make the Commission change its mind, the administrative agency concerned does not have smooth sailing in the matter, for its decision is subject to scrutiny both from within and without the administration; this tends to make rejection of the Commission's advice an awkward matter for the Ministry.<sup>15</sup> As regards internal arrangements, it was decided, as referred to earlier, in the wake of Independence that any case relating to recruitments in which a Ministry wished to reject the Commission's advice, must be referred to a Cabinet Committee consisting of the Prime Minister, the Minister for Home Affairs (who is responsible for service matters) and the Minister in-charge of the Department involved. If the Prime Minister or the Minister for Home Affairs is the Minister concerned administratively, the Finance Minister is added. Thus, if a Ministry chooses to over-rule the Commission, it has to enlist the support of this high-level

<sup>13</sup> First Report of the U.P.S.C., para 10; Second Report of the U.P.S.C., para 6.

<sup>14</sup> Sixth and Seventh Annual Reports of the U.P.S.C., paras 3 (ii) and 5 (ii) respectively.

<sup>15</sup> For a detailed study of the checks both from within and without the administration, vide M.A. Muttalib's Case Study entitled "The Grant of Extension to the Inspector-General of Forests", Cases in Indian Administration, Indian Institute of Public Administration, New Delhi, 1963, pp. 37-100.

Cabinet Committee.<sup>16</sup> Although in all such cases the Appointments Committee's power to override the Commission is real and effective, it is not exercised lightly.

Super-imposed on this internal check is a device referred to earlier, provided by the Constitution itself. This is through the U.P.S.C.'s Annual Report to the President under Article 323 which also requires the President to lay it before each House of Parliament with a Memorandum justifying the rejection of the advice of the Commission. It is not difficult to fathom the intentions of the framers of the Constitution in this regard. The provision reveals their belief that a Public Service Commission embodies the public interest in its civil service, and derives its authority ultimately from public opinion. In fact, it is in this provision that they grounded the Commission's final authority. How far this safeguard has been effective is largely evident from the fact that out of several hundred cases referred to every year, it was only in an extremely small number of cases that the Commission's advice was not accepted.

Table No. 2  
Non-Acceptance of the Commission's Advice 1950-61<sup>17</sup>

<i>Year</i>	<i>Total number of cases of non-acceptance</i>	
1950-51	...	6
1951-52	...	1
1952-53	...	2
1953-54	...	4
1954-55	...	1
1955-56	...	1
1956-57	...	1
1957-58	...	Nil
1958-59	...	Nil
1959-60	...	1
1960-61 <sup>18</sup>	...	3
1961-62	...	1
Total : 12 years	...	21

<sup>16</sup> Before 1949 cases of non-acceptance of the Commission's advice used to be placed by the Chairman of the Commission with its points of view before the Governor-General at a personal interview. With the advent of the Governor-General as a Constitutional Head and thereby, with no discretion to act outside the minister's advice, the situation needed to be reviewed.

<sup>17</sup> In the Eleventh Report, 1960-61, four cases of non-acceptance were mentioned. One of them relates to the Delhi Municipal Corporation.

<sup>18</sup> For the number and nature of the cases in which the Commission's advice was rejected, see the relevant Appendix.

One may contend that there are ways of side-stepping or avoiding the Commission's advice without open collision.<sup>19</sup> For instance, if a Ministry does not want a candidate selected, it may withdraw the post and then fill it on a temporary basis with the person of its choice; when the year in which it can fill the post with a temporary appointment of its own choice is up, it can ask the Commission for another open competition; the temporary appointee will then compete with the advantage of experience in the post behind him. Sometimes a Ministry may appoint a person of its own choice and go on extending the office for short periods in this manner, giving an assurance each time to the Commission that the post will not be continued beyond a specified date and that if so continued, the officer will be replaced by another in consultation with the Commission. This ultimately leaves the Commission with no alternative but to concur in the continuance of the same officer, as a change-over after such a long period, would often not be in the public interest.

The U.P.S.C. which is very punctilious in asserting itself not only protested against irregular appointments, but has mentioned such cases at length in its Annual Reports, exposing the Ministry concerned to criticism in Parliament and elsewhere. How far the device of publicity has been effective as regards irregular appointments, it is difficult to assess. In certain cases the administrative agencies run into genuine difficulties. In the absence of Government's explanation of its attitude in such cases in its Memorandum on the Annual Report of the Commission, the public does not know the other side of the story. If the Government starts the practice of giving its reasons in regard to such irregular cases, the situation may improve.

As mentioned elsewhere, the Constitution requires regulations made in this behalf to be laid before Parliament for not less than 14 days. Parliament is competent to make modifications by way of repeal or amendment. Undoubtedly, it was this provision which satisfied even the advocates of a strong Commission in the Constituent Assembly. Thus a delegate observed: It "provides a check, and a very good check, on the

<sup>19</sup> Hayes, C. J., Report on the Public Service Commissions of British Commonwealth Countries, 1955, *op. cit.*, p. 148.

vagaries of the Executive".<sup>20</sup>

This device speaks of the distrust of the Executive by the authors of the Constitution and their emphasis on the ultimate authority of the Legislature over the relationship between the Executive and the Commission. Thus by making it incumbent upon the Government to submit the matter to the final judgment of the Legislature, they contemplated that "the Executive will be disposed to act with caution and not exercise its powers in an arbitrary fashion and act as if the Public Service Commissions did not exist".<sup>21</sup>

Also the system puts the Commission on its mettle, for it whets the awareness of the Commission that its conclusions are, by and large, in the nature of advice and, therefore, nothing but their expertness and practical value can elicit compliance from the administrative agencies. The type of authority which the Commission exercises, is through the respect it commands because of its knowledge in service matters.

The assertion by the Commission of its rightful role in service matters and vigilance by Parliament against undue exclusion of service matters from the purview of the Commission cannot be overemphasized. India is unlike several Western democratic countries where the development of democratic institutions was followed by a crusade against the spoils system. The reformers in these countries, once the civil service concept was established, went on struggling for the reduction of the number of posts filled by political preference. In other words, the interest of civil service reformers always centred round designs to eliminate political favouritism in the selection process and to place a premium on competence and ability as demonstrated in competitive tests. In India, on the other hand, long before the advent of democratic rule, the principle of selection to administrative office on the basis of individual fitness had struck deep roots (although for political reasons, certain appointments were reserved for persons of European origin). This was largely because of the acceptance of the merit principle (by throwing open public positions to competitive

<sup>20</sup> CAD., *op. cit.*, August 23, 1949, p. 627 for Pandit H.N. Kunzru's speech.

<sup>21</sup> *Ibid.*, p. 628.



examination) as far back as 1855. Even the positions which were of "confidential" or "political" nature were mainly filled from those persons who were selected through competitive examination. But the legacy of excluding service matters from the Commission which the Indian Constitution has inherited from its predecessors, may have to be kept in check. In spite of the statutory precautions, the task of the U.P.S.C. as the "watch-dog of the merit system" is very difficult indeed. As the politicians are still in the early flush of power, the exclusion list is growing larger<sup>22</sup>—tendency which needs to be arrested. It may be pertinent to suggest that while on certain grounds the U.P.S.C. may be asked to agree to the exclusion of some services and posts, in the long run this is a dangerous development. The Commission must be in a position to increase the emphasis on removing the temptation to use the office of the Government for personal or party ends. It may thereby, protect the political Executive against party pressure and against the suspicion that an appointment, promotion or transfer has been made on political grounds or for reasons other than merit.

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<sup>22</sup> This is particularly true about certain States.

PART THREE

THE U.P.S.C. AT WORK

THE U.S.A. AT WORK  
PART THREE

## CHAPTER V

### RECRUITMENT—SCOPE AND CONTEXT

#### 1. U.P.S.C. AS A RECRUITING AGENCY

The U.P.S.C. exists primarily as a recruiting agency. Its functions as a recruiting agency, have both constitutional and extra-constitutional bases. Thus it is under constitutional obligation to conduct examinations for appointments to the Union (Central) Services. It has a similar role to play in relation to State Services, if requested so to do.<sup>1</sup>

It may be pointed out here, that the U.P.S.C.'s claims for holding examinations for recruitment to the All-India Services has no "immediate" constitutional basis. Under Article 312, Parliament may, by law, provide for the creation of All-India Services and regulate their recruitment and conditions of service. It was in pursuance of the All-India Services Act, 1951 that the President issued Regulations in 1954, authorising the Commission to conduct examinations for recruitment to the All-India Services. In other words, the President is under no constitutional obligation to entrust this function to the Commission alone.<sup>2</sup>

In addition to the civil services, the Commission conducts examinations for the cadets of various wings of the defence services, and to certain appointments under the statutory bodies, like the Delhi Municipal Corporation and the Employees' State Insurance Corporation. As referred to earlier, while examinations for recruitment to the cadets of the defence service by the Commission have no statutory basis, recruitment to some of the bodies corporate, is an outcome of parliamentary enactments.

So far as the Central Services are concerned, the U.P.S.C.

<sup>1</sup> Vide clause (2) of Article 320 and clause (4) of Article 315.

<sup>2</sup> The All-India Services Act, 1951 together with Rules and Regulations for the All-India Services is contained in the "Hand Book of Rules and Regulations for the All-India Services", Vol. I, Ministry of Home Affairs, Government of India, 1962.

is not the sole recruiting agency, although it is the only statutory agency at the Centre with a constitutional status. Recruitment to such of those posts or classes of posts as are excluded from the purview of the Commission by the President, is made by the Ministries and Departments concerned. The recruiting procedures that are followed by the administrative agencies of the Central Government may be described under two types. For certain posts and classes of posts, there have been established regular departmental recruiting agencies. For example, the Railways have their own Service Commission; and the Posts and Telegraphs Department has its Postal Service Selection Board. Secondly, for certain posts filled from the higher echelons of the service, there are *ad hoc* selection boards which meet as and when vacancies occur. Posts at lower levels, which are not filled by promotion or through the Commission, are required under orders of Government to be filled from lists of eligible candidates obtained from the Employment Exchanges. Thus, by and large, under this pattern which is discernible both at the Central and State levels, there is no central recruiting agency with some responsibility for the entire civil service on the lines for instance, of the U.K. So far as recruitment is concerned, the British Civil Service Commission is the sole employment agency. In India on the other hand, the higher services have a system of centralised recruitment, while the lower services have decentralised recruiting arrangement.

As referred to elsewhere, the practice of employing departmental selection boards for recruitment to the bulk of Class III and Class IV posts neither promotes the basic objective of the creation of an independent recruiting agency like the Commission, nor does it adhere to uniform standards in the selection of personnel—a basic requirement of merit system. The situation can improve if the general supervision of the Commission is grafted in the matter, requiring the selection boards to follow the standard laid down by the Commission and by subjecting them to its inspection with a view to enforcing adherence to them.

It hardly needs to be emphasised that the calibre of the persons who constitute the selection boards is important. The Commission should figure in their selection. A happy trend

noticeable is that certain Departments have started the practice of appointing the members of their selection boards in consultation with the Commission.<sup>3</sup>

## 2. RECRUITMENT RULES

The starting point in filling a post, is to determine the method of recruitment. This presupposes some knowledge of the duties that are intended to be discharged. It is with reference to these duties that the qualifications for the post are decided; and with reference to the qualifications required that the appropriate method of filling the post is determined.

Under the Constitution of India, Parliament is the ultimate authority empowered to pass the law to regulate the recruitment and conditions of service of persons appointed to the civil service of the Union. The President is, however, competent to make rules regulating the recruitment and conditions of service.<sup>4</sup> As regards the Central Services, under Article 309 and clause (5) of Article 148 of the Constitution, after consultation with the Comptroller and Auditor-General in relation to persons serving in the Indian Audit and Accounts Department, the President may make rules. As mentioned earlier, so far as the All-India Services are concerned, in pursuance of the All-India Services Act, 1951, the President regulates recruitment and conditions of service of persons to be appointed to them. For recruitment to the isolated posts, whether under the Central Services or reserved for All-India Services, specific provisions are made by the President through a general or special order.

The President's competence to frame Recruitment Rules of the civil services and posts of the Union is qualified by a proviso of clause (3) of Article 320 of the Constitution.<sup>5</sup> The

<sup>3</sup> For example, the members of the Railway Service Commission and Posts and Telegraphs Selection Boards are selected by the Departments concerned in consultation with the Commission.

<sup>4</sup> Until an Act is passed by Parliament in regard to such matters, the President is competent to make rules under Article 309.

<sup>5</sup> (3) (a) of Article 320 reads : "The Union Public Service Commission... shall be consulted (a) on all matters relating to methods of recruitment to civil services and for civil posts;" but under a proviso to clause (3) the President may exempt any post of service from the purview of the Commission.

Recruitment Rules for posts included in All-India Services and Central Services, both organised and isolated but which are not exempted from the purview of the Commission, are to be framed in consultation with the U.P.S.C.

A post may be filled by open recruitment, by promotion or by transfer of a person from a particular service. If there are a number of posts in the same grade, it may be sometimes desirable to provide for any one or more methods of recruitment to the grade.<sup>6</sup> Where the Recruitment Rules indicate more than one method of recruitment, objectivity demands that the circumstances under which one or the other method would be applied, are signified. Normally in such cases, the respective percentage of vacancies that will be covered by each method, is indicated. The role of the Commission in the matter, as the watch-dog of the merit system, is to impress upon the representatives of the operating units the need to be as clear and definite as possible to avoid conjectures.

The framing of Recruitment Rules may be considered as occurring in two main stages. First, the conditions of service along with the salary scale to be carried by the post are determined. Secondly, the qualifications, requisite background and experience and the method of recruitment are determined. Under the existing practice, the Commission is not very much concerned with the first stage.<sup>7</sup> It is in the second stage that the operating units seek the advice of the Commission. Indeed, they gain much and lose nothing by acting upon that advice. From its experience and knowledge the Commission is better qualified than any other body to tender expert opinion at this stage. This is not, of course, to suggest that the Commission is infallible in its conclusions; but there is no other entity more likely to be right. Therefore, its advice prevails in effect as a matter of course.

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<sup>6</sup> Rajendra Lal, Paper on U.P.S.C., *op. cit.*, pp. 7-8.

<sup>7</sup> In the first stage in matters relating to pay scales, the Commission may advise the Ministries to amend them suitably if it finds them unattractive. Also, its advice in regard to classification of posts in the light of its past experience may be useful.

### 3. THE FIELD OF RECRUITMENT

The regulations prescribing conditions for entrance to the public service, aim at combining democratisation with efficiency. Thus the Constitution guarantees equality of opportunity in matters of public employment.<sup>8</sup> Through “the reservation of appointments or posts in favour of any backward class of citizens” for their adequate representation in the public service, the Constitution gives recognition to the doctrine of “equal opportunity among equals”. This doctrine is, however, qualified by Article 335 which envisages that the claims of the members of the backward classes “shall be taken into consideration, consistently with the maintenance of efficiency of administration in the making of appointments to services and posts in connection with the affairs of the Union”. While emphasis on efficiency in Indian conditions results in disparities in representation of weaker sections and regions, a recourse to democratisation seriously undermines the efficiency of the services.

It is sometimes said that unattractive pay scales and lack of liberal opportunities for promotion have been the serious general limitations in recruiting for the public service. It is very difficult to refute this statement, with reference not only to the career services but also to isolated posts advertised for recruitment. There are certain specific considerations, *e.g.*, the educational system, restrictions in regard to citizenship, age and experience factors, and reservation of posts for backward classes each of which in its own way, operates to determine the clientele groups from which the Commission may hope to recruit for public positions.

#### *(i) Citizenship*

Practically all jurisdictions have some basic citizenship requirement for selection to the public service. In fact, employment in the civil service of the modern State is ordinarily limited to the citizen as against the alien. However, there have been certain exceptions in the Indian context depending on the political relations with foreign countries. For instance, the following categories of non-Indian citizens have been rendered eligible

<sup>8</sup> Vide Article 16 (1) of the Constitution.



for employment under the Union Government : (a) subjects of Sikkim, with whom India has a relationship of a special nature; (b) persons of Indian origin who have migrated from Pakistan with the intention of settling in India; and (c) Nepalese and Tibetans who settled in India before January 1, 1962, subject to the issuance of a certificate of eligibility in their favour.<sup>9</sup> But for the I.A.S. and I.A.S. only a citizen of India is eligible.

(ii) *The Educational System*

For the well-organised services the primary sources of supply of recruits are the Schools and Universities. As O.G. Stahl observes, "The State as employer must always be influenced by the State as educator, and the character of the educational system will determine to a certain extent that of the civil services".<sup>10</sup>

Realisation of this responsibility on the part of the Government of India could be traced back to the Resolution of the Government of India, June 1868 creating scholarships with a view to affording to the Indians facilities for obtaining a University Degree and for passing the competitive examination in England for admission into the Indian Civil Service.<sup>11</sup>

Broadly speaking, ever since the acceptance of the recommendation of the Islington Commission<sup>12</sup> in 1922, a University Degree in Arts or the pure Sciences has been an essential qualification for direct recruitment to the higher and intermediary levels as well as to the higher clerical services. Earlier, however, a considerable percentage—very often more than 66 per cent—of the successful candidates for the I.C.S. were University graduates except when the maximum and minimum age-limits were reduced to 17 and 19 years respectively.<sup>13</sup> Since

<sup>9</sup> As an illustration, see *The Hindustan Times*, Saturday, April 27, 1963, p. 2, column 3, Union Public Service Commission, Advertisement No. 17.

<sup>10</sup> Stahl, *Public Personnel Administration*, *op. cit.*, p. 63.

<sup>11</sup> Philips, C.H., *The Evolution of India and Pakistan, 1858-1947*, *op. cit.*, 1962, p. 535.

<sup>12</sup> See Annexure X, Chapter III, para 21 of the Report of the Islington Commission.

<sup>13</sup> *Ibid.*, p. 552.

1893 and particularly since Independence when the minimum age-limit has been 21 years or above, a very large fraction of both the intending and successful candidates for the I.C.S. and later for the I.A.S. have been post-graduates. For instance in the I.A.S. etc. Examination, 1955, of 340 successful candidates 66 (*i. e.*, 17.6 per cent) were only graduates.

For the lower clerical services, the academic qualification required is either the Intermediate Examination in Arts or Sciences, or Matriculation. The Ramaswami Mudaliar Committee advanced two reasons for this.<sup>14</sup> One is to be found in our history; the other, in the need to secure personnel conversant with the language of administration. Except during the last few decades, the higher services under the British Government of India were reserved practically for Europeans. The only outlets for educated Indians, therefore, were in the subordinate posts and services. With the spread of University education, the number of graduates multiplied. With a large number of graduates applying for the subordinate posts, it was natural for the employers to confine their selection to graduates. Also a fairly high degree of competence in the English language was thought necessary; and such competence could be expected only from persons who had gone through the University stage of education. As regards the insistence on University Degrees, the Ramaswami Mudaliar Committee was of opinion that "it cannot and should not be dispensed with entirely."<sup>15</sup> Re-examining the requirements in relation to the different levels of government service, the Committee broadly divided public services of a non-technical and non-professional nature into three categories :—

- (a) Senior Officers—Executive and Administrative (the services to which selection is now made on the results of the Combined Examination for recruitment to the I.A.S., I.F.S. etc. and the services which are described as Class I Executive Services in the State Governments).
- (b) Junior Officers—Executive and Administrative (those fall between the clerical or ministerial services where duties are of a routine nature).

<sup>14</sup> Report of the Public Services (Qualifications for Recruitment) Committee, Ministry of Education, Government of India, 1956, p. 2.

<sup>15</sup> *Ibid.*, p. 11.

- (c) Clerical Services (clerical or ministerial services where duties are of a routine character).

For the top-most grades, the Committee was definitely of opinion that entry into these services should be restricted to graduates, for it held that for these services a "maturity of outlook", and cultural standard are required which can, by and large, be expected of graduates. The Committee added that the age-level for entrance to these services should be between 21 and 23. For the middle grade posts it held that University Degrees should not be made the minimum qualification but that graduates should be given an opportunity to compete if they so desire. By suggesting that the age-limits for this group of service be between 19-21, the Committee rendered these posts open to non-graduates as well as to graduates.

The Committee did not disqualify but it did discourage graduates from entering the clerical services by recommending that the age-limits should be 17-19. Under the new system of education, it is not easy for any one to obtain a Degree before the age of 20. Fixing the maximum age-limit at 19, the Committee observed, precludes graduates from competing for such services.

One happy trend noticed in the wake of Independence, which has a direct bearing on the country's educational system, is the enlarging of the areas of co-operation between the Commission and Schools and Colleges. This is due to two important factors. First, the educational institutions are the primary source of recruits for career services and posts. Until very recently, the search for public employment by candidates fresh from Schools and Universities through the Commission was a one-way flow. In view of the growing requirements of technical and other personnel and the non-availability of adequate number of candidates, the Commission has recently been making direct contact with the educational institutions in search of suitable candidates. Another factor that fosters contact between the two is the Commission's recommendatory authority in regard to the recognition by the Government of Degrees and Diplomas awarded by Universities and Institutions.

While it may not be desirable for the Commission to associate itself with bodies having executive functions, closer and

effective co-operation between the Commission and the educational community is of mutual benefit. Therefore, serious thought must be given to the idea of providing closer liaison between these two institutions. Programmes should be worked out for meshing University work with career opportunities in the public service.

This brings us to the question of the adequacy of the present educational system which prepares students for an administrative career. The bulk of the career services are those who have had a liberal education. In this respect, India follows the lead of Britain which has been successful in recruiting for administrative duties the pick of the graduates from Oxford, Cambridge, the London School of Economics and Political Science and other established Universities. In other words, it is based on what Lord Haldane told the Royal Commission on the Civil Service, "We still consider it worthwhile for our administrators to know their Aristotle and Plato".

This is in sharp contrast with the school of thought which maintains that administration is not alone an art but also a science. Those who subscribe to this approach believe that it is possible to provide vocational training for the administrator, the subjects covered being determined by what an administrator actually does. If increasing doubt is expressed about too heavy emphasis on recruitment from those trained in the classics, public administration training in Universities will provide opportunities for its graduates limited to the minor generalist job only.<sup>16</sup>

In view of the Welfare State commitments to which the Indian Constitution binds all who claim to be public administrators, more attention must be given to the problems of articulating the educational system and the civil service. There is a need for widespread interest in questions of pre-entry training and in methods for bringing about a closer correlation between formal education and the demands of public administration. What seems to be indicated by the changing administrative climate is either greater emphasis upon the social sciences in the

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<sup>16</sup> For a more detailed discussion of these two schools of thought, see Stahl, *op. cit.*, pp. 63 & 343-345.

entrance examinations, or a system of post-entry training designed to orient the young officials in this area.

(iii) Age

With respect to isolated posts, the usual practice is to specify age-limits, both maximum and minimum, according to the requirements of the job, and sometimes depending on the availability of candidates.

So far as the career services and posts are concerned, the underlying idea in prescribing age-limits is that recruitment should be made at an early age to the bottom rungs, with appropriate chances of promotion throughout the service career.

Between 1855 and 1947, numerous changes in the age-limits for the I.C.S. Examination were made as is evident from Table No. 3, the minimum ranging from 17 to 22 and the maximum from 19 to 24. Between 1922 and 1936 the age-limits that were prescribed for candidates taking the examination in India, were different from the age-limits for taking it in the United Kingdom.<sup>17</sup>

Table No. 3  
Age-Limits for the I.C.S. Examination 1855-1943

Venue of Examination Year of change	U.K.								India	
	1855	1860	1866	1878	1893	1906	1921	1936	1922	1936
Minimum limit	18	18	17	17	21	22	21	22	21	22
Maximum limit	23	22	21	19	23	24	24	24	23	24

When the age-limits were lowered at 17 and 19 in 1878 with a view to attracting more candidates it resulted in the discouragement of Indians in taking Examination in London. It may be both interesting and instructive to analyse the results of the reductions in the minimum and maximum age-limits as Lord Ripon communicated to the Secretary of State in 1884 : In the first place, the change involved an entire reversal of the system of open competition which as Lord Derby urged in the debate on the Bill of 1853 was competition between young men

<sup>17</sup> Cf. O' Malley, *op. cit.*, p. 242.

and not competitions between boys and that the competitions should be between men who had already received the best general education from Schools and Universities. The successful boy overstrained by premature effort as contended by Lord Ripon is only too likely to subside into a listless unenergetic man; the youth who wins by the spontaneous efforts of mind, exerted at an age when that mind can bear the strain, will in all probability maintain his superiority throughout his career.

Moreover, the theory upon which Lord Macaulay and others founded the competition was that the I.C.S. ought to receive "the best, the most liberal and the most finished education that his native country affords" and that the candidates must "have taken the first degree in arts". If between 1856 and 1879 of 903 persons who entered the services 618 or more than two thirds were University men and 324 or 36% of the whole number were graduates, during 1879-1884 when the age-limits were 17-19, the percentages of graduates were between 3-7<sup>18</sup>.

Further, this arrangement resulted in lowering the proportion between competitors and appointments. Thus if before this change the candidates were five times as many as the vacancies, since 1878 this proportion was reduced to little more than half. The fewer the competitors, very often the less testing the examination and hence the lower educational standard of those who pass.

Finally, the change rendered it, to use Lord Lytton's words, a matter of exceptional difficulty for the Indians. Thus, between 1878 and 1883 only one Indian was successful in the Examination.

A study of the changes in the age-limits reveals that since 1893 the minimum age-limit has been never less than 21 years and the maximum has been never more than 24 years.

The most significant feature of the emergency recruitment held in the post-Independence period was the drastic change in the normal age-limits. As it was impossible to recruit officers for all the vacancies from the particular age-group which is tapped for normal recruitment, applications were invited from persons who were above the ordinary age-group but not above the age of forty-five years; the minimum age-limit was set at

18 Cf. Lord Ripon's Minute of September 10, 1884, Philips, C.H., *The Evolution of India and Pakistan*, *op. cit.*, pp. 552-554.

27.<sup>19</sup> In 1956, under the emergency recruitment scheme, persons between the ages of 25 and 40 were made eligible to take the Examination.

The Indian Administrative Service (Appointment by Competitive Examination) Regulations, 1955 prescribes that a candidate appearing for the Examination must have attained the age of 21, and not attained the age of 24, on the first day of August of the year in which the Examination is held. But the Indian Police Service (Appointment by Competitive Examination) Regulations, 1955 prescribes the minimum age-limit at 20, instead of 21.

The upper age-limit, however, may be relaxed up to a certain number of years (as prescribed by the Central Government from time to time)<sup>20</sup> in the case of candidates under certain special conditions. For instance, this concession has been shown to

- (a) a displaced person from Pakistan;
- (b) a resident in the former French Settlements (which are now a part of India) who has received his education through the medium of the French language;
- (c) a resident in the Union Territory of the Andaman and Nicobar Islands; and
- (d) an Indian citizen coming to India under the Repatriation Scheme of the Government of Ceylon.

In addition, candidates belonging to the Scheduled Castes and Scheduled Tribes get concessions in respect of age.

(iv) *Sex*

In India women are not as well represented in the public service as in some of the Western countries. For instance, from the distribution of I.A.S. Probationers according to sex from 1948 to 1960, one finds that in no year was the male element less than 90%. This may be accounted for by the very low percentage of literacy for women which in 1951 was 7.9 while for men it was 24.9. This low percentage of literacy is mainly because of social attitudes concerning education and employment of the fair sex.<sup>21</sup>

<sup>19</sup> First Report of the U.P.S.C., para 16.

<sup>20</sup> Recruitment Rules of the Services concerned provide the information.

<sup>21</sup> Cf. Rac, D.N. "Disparities of Representation in I.A.S.", a background

Although there are no general legal barriers to the recruitment of women, marriage in the case of certain categories may become the cause of disqualification for appointment or continuation in service. These disqualifying features are as follows :

- (i) No person who has more than one wife, shall be eligible for appointment to the service.<sup>22</sup>
- (ii) No married woman shall be entitled as of right to be appointed to the service and where a woman appointed to the service subsequently marries, the Central Government may, if the maintenance of the efficiency of the service so requires, call upon her to resign.
- (iii) Subject to the provisions contained in (ii) no woman who is married to any person who has a wife living, shall be eligible for appointment to the service.
- (iv) Exemption may, however, be given from the application of (i) and (iii) by the Central Government, if it is satisfied that there are special grounds for doing so.

Sex may become a bar in practice, if not in law, and definitely affects recruitment. The appointing authority may specify at the time of submitting a requisition for eligibles the sex of the persons to be appointed or even eligible, though the number of such posts may be very small. The discretion of the appointing authority to prefer one sex to the other, may be justified on the ground that even when all discrimination is eliminated, it is fair to recognise that there are certain posts for which women have special aptitudes and some for which men are more suited.

#### (v) *Reservation of Posts*

(a) *Weaker Sections* : An important factor that modified the competitive system for more than two decades preceding Independence, was the principle of communal representation. Under this scheme, competition was not free and open, but was limited to accepted candidates. Different Colleges and Universities were to nominate a fixed number of candidates on the

paper to the Conference on "Problems of the Public Services", March, 1962, Indian Institute of Public Administration, New Delhi.

<sup>22</sup> In this case second marriage during the life-time of the first wife is the cause of disqualification.



basis of University results, and the candidates sent up would be further screened by a Selection Committee. Those finally chosen by this Committee would alone be permitted to appear at the competitive examination.<sup>23</sup> This system was to be adopted for the examinations held both for the All-India Services and the Provincial Services. It was decided that altogether two hundred candidates would be admitted to the examination and that they would be chosen from among candidates applying in different Provinces.

With the advent of Independence, the system of reservation of seats on a communal basis was abandoned. A remnant of the system, continues today for certain economically and socially backward classes. Article 16 (4) and Articles 335 and 336 provide a constitutional basis for taking their "claims" into consideration "in the making of appointments to services and posts in connection with the affairs of the Union..."<sup>24</sup> Article 336 was avowedly transitional in nature. The Article deals with special provision for the Anglo-Indian community in the railway, customs, postal and telegraph services of the Union. Every succeeding period of two years after August 15, 1947, the number of posts reserved for them in the aforesaid services, was to be reduced by 10% of the numbers so reserved during the immediately preceding period of two years. The scheme was to work so that all such reservations were to cease at the end of ten years after the adoption of the Constitution.

The policy of the Government of India in regard to Scheduled Castes is to reserve  $12\frac{1}{2}\%$  of all vacancies filled by direct recruitment to posts and services made on an All-India basis by open competition, 16% in the case of other vacancies filled directly or otherwise. As regards the Scheduled Tribes, there is a reservation of 5% of all the vacancies filled by direct recruitment; whether by open competition or otherwise. It has now been held by the Supreme Court that the reservation may extend to promotions.

In this connection a recent decision of the Supreme Court relating to the reservation of posts for the Scheduled Castes and Scheduled Tribes will be of far-reaching consequence. The

<sup>23</sup> Roy, N.C., *The Civil Service in India, op. cit.*, p. 222.

<sup>24</sup> Article 335 of the Constitution of India.

resolution passed by the Government of India reserving 17½% of appointments and posts for the Scheduled Castes and Scheduled Tribes specified that if in any year suitable candidates were not available from amongst those classes, the reserved posts would not be treated as such and would be filled by candidates from other classes. A corresponding number of posts would be carried forward in the next year. If in the subsequent year the same thing happened, the reserved posts unfilled, would be carried forward to the third year. In the third year the number of posts to be filled from amongst the candidates of the Scheduled Castes and Tribes, would thus be 17½% of the total vacancies to be filled in that year plus the total unfilled vacancies which had been carried forward from the two previous years. This "carry forward" rule thus permitted a perpetual "carry forward" of unfilled reserved vacancies in the two years preceding the year of recruitment in addition to the 17½% of the total vacancies to be filled in the recruitment year. The Supreme Court held that the rule provided excessive reservation that practically denied a reasonable opportunity for employment to members of other communities which is guaranteed by Article 16 (i) of the Constitution. Therefore, the rule was declared bad and unconstitutional by the Supreme Court.<sup>25</sup>

The Supreme Court's decision, which marks an important step towards defining the doctrine of protective discrimination embodied in the Constitution, caused an amendment to the carry forward rule. Under the new rule the reservation will be less than 50% of the total number of vacancies in any year. In issuing orders for the reservation of posts, Government need not, under clause 4 of Article 320, consult the Commission. But the Commission is authorised to select other suitable candidates if none are forthcoming from the aforesaid classes. This is in pursuance of Article 335 which says that the claims of such classes may be taken into consideration "consistently with the maintenance of efficiency of administration". Further, although once the limits are made, the Commission is obliged to

<sup>25</sup> The Hindustan Times, August 29, 1963, p. 1, col. 4, and back page col. 3. In the case considered by the Supreme Court as a result of the rule, the reservation for the Scheduled Castes and Tribes came to about 64.4% of the total number of vacancies in 1963.

act upon them, it is authorised to relax them in the case of candidates possessing special merit. Sometimes, the Commission itself advises Government to relax certain restrictions, keeping in view the availability of suitable candidates.

In view of the non-availability of suitable candidates from the above weaker sections, their representation in the Central Services is not satisfactory.<sup>26</sup> However, in the higher services the number of candidates from these sections is beginning to show a gradual increase. As the Scheduled Castes and Scheduled Tribes Commission rightly observed, the situation may improve and their capacity for useful service will increase, if the Government creates conditions for them to raise their educational qualifications. In recent years, however, there has been a growing recognition that the reservation provisions which were intended to provide for the weaker sections a rightful share in administration, tend to create vested interest in backwardness and to aggravate class and caste consciousness.

(b) *Veterans of Wars*: Preference in recruitment to certain posts is given to specific groups of people, such as, of what the Americans call 'veterans of war' or persons who have served in the armed forces.<sup>27</sup> Under a recent directive of the Central Government, 50% of certain categories of civil posts have been reserved for those who have joined the Defence Forces since the state of emergency was proclaimed in the wake of the Chinese aggression. This is in fact, a revival of the practice of reserving certain vacancies for "war service candidates", followed after the Second World War. The then Government of India stopped permanent recruitment to its services in 1942. It decided to fill 70% of the vacancies after the war with war service candidates and the remaining 30% with those occupying them temporarily during

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<sup>26</sup> In 1962 the average percentages of representation for Scheduled Castes and Scheduled Tribes were only 2.1, and 1.5 respectively so far as I.A.S. was concerned and these fall far short of the 12½% and 5 per cent in the total reservation as envisaged in governmental notifications. Cf. Rao, D.N., "Disparities of Representation in I.A.S.", *op. cit.*

<sup>27</sup> See the following chapter for the manner in which the retiring army officers are recruited to civil posts.

the war.<sup>28</sup>

To sum up, there are a number of considerations which determine the field of recruitment. The U.P.S.C. which is one of the several recruiting agencies at the Centre, does not figure in the matter, except that in the light of its experience it may tender its expert advice, sometimes on its own initiative and sometimes at the instance of the Government. However, it enjoys a unique position among the recruiting agencies. First, it is the only statutory agency with constitutional safeguards. Secondly, it is mainly concerned with recruitment to the higher rungs of the Central Services and the All-India Services. Finally, it is almost invariably consulted in framing Recruitment Rules which define the area of recruitment.

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<sup>28</sup> The Statesman, January 8, 1963.

## CHAPTER VI

### DIRECT RECRUITMENT

Recruitment through competitive examination, which is a legacy bequeathed by the British administration to the Government of India, remains to-day essentially the same. All the existing recruiting agencies are, in a way, instrumental in promoting the principle of competition in public employment. Before the present system of recruitment is discussed, it is desirable to mention the salient features of the then existing arrangement as a preface to understanding of the present system. While this is not an attempt to recount the selection activities of the previous recruiting agencies, it is necessary to mark the various stages of evolution of the system of competitive examination in the public service in the pre-Independence period.

The year 1855 divides the development of the recruiting system in India under the British rule into two distinct parts : (1) The pre-1855 period when the Court of Directors of the East India Company maintained their much valued power of patronage; this existed in an unregulated form until the beginning of the nineteenth century, followed by a regulated system which continued till 1855.<sup>1</sup> (2) The post-1855 period when the executive authorities were, by and large, deprived of patronage and the services were thrown open to competition.<sup>2</sup>

Between 1855 and 1947, the system of open competition for recruitment to the public service assumed various forms, all

<sup>1</sup> For the details about the pre-1855 recruitment procedure, see Ghosal, A.K., *Civil Service in India Under the East India Company*, *op. cit.*

<sup>2</sup> All public positions have never been open to competition in the absolute sense of the term, both between 1855-1947 and since 1947. The Statutory Civil Service (established in 1879) was recruited through nomination. Reservations were made in the public service on a communal basis until the advent of Independence. Under the Constitution, the Executive is competent to make reservations for backward classes, the Scheduled Castes and the Scheduled Tribes. Further, till 1922 no regular competitive examinations were held for recruitment to lower classes of the service.

qualified by three important requirements : (a) the desire to maintain and stabilize British rule; (b) the demand for increasing association of Indians in every branch of administration;<sup>3</sup> and (c) the conscious decision to reserve a quota of appointments and posts for certain communities. While (a) and (c) tended to limit the competitive principle in certain areas of the public service, (b) encouraged the open competition.

The recruiting arrangements during the period since 1855, may be marked off as follows :

- (1) 1855-1858 : When the written examination was held under the supervision of the Board of Control for recruitment to the higher services in India.
- (2) 1858-1922 : When the British Civil Service Commission acted as the sole recruiting agency to the superior services and examinations for them were held only in U.K. During this period, there was no regular central recruiting agency for services other than the superior. Recruitment for the I.C.S. by examination in London discouraged Indians, as did the lowering of the age of entry from 17 to 19 during 1878-1893.
- (3) 1922-1926 : During this period examinations for the higher services were held simultaneously in U.K. and India,<sup>4</sup> although the British Civil Service Commission continued as the sole recruiting agency. The examinations were not held in India until 1922 in spite of persistent demands on the part of the Indians and the Resolution of the House of Commons as early as June 2, 1893. In 1922 a recruiting board namely, the Staff Selection Board, was created for recruitment to the middle and lower levels of the public service at the Centre. In 1922 the practice of appointing persons to the Indian Civil Service on communal grounds, was

<sup>3</sup> Compare the views of the prominent political leaders of the Indian National Congress from time to time.

<sup>4</sup> The I.C.S. Examination which was held in India was confined to domiciled Indians, while the London Examination was open to Europeans also. The Islington Commission recommended for the first time, for conducting recruitment to the I.C.S. through competitive examination in India; see p. 171, Annexure X, Chap. III, paras 17 and 19-20 of the Report of the Islington Commission.

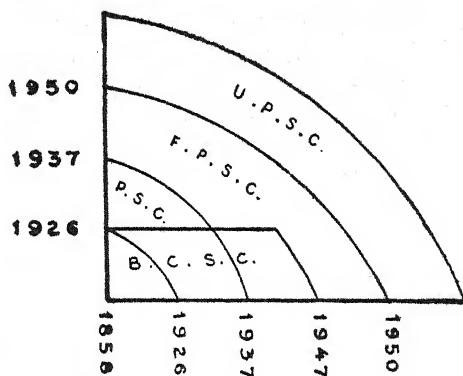
commenced at the instance of the Islington Commission.<sup>5</sup>

- (4) 1926-1937 : With the establishment of the Public Service Commission in 1926 on Indian soil, two recruiting agencies functioned during this period. But, while the Public Service Commission's functions were limited to the services at the Centre, it conducted examinations for the All-India Services on behalf of the British Civil Service Commission.
- (5) 1937-1947 : When the Government of India Act, 1935 was given effect to from 1937, there emerged the Federal Public Service Commission which was equally competent to hold recruitment for the All-India Services. While the British Civil Service Commission's recruitment activities were confined to All-India Services, the Federal Commission held examinations for the Federal Services also—as a matter of fact, the Federal Commission was primarily the recruiting agency for the Central (Federal) Services. Recruitment for the All-India and Central Services stopped after 1943 owing to the Second World War. Although the need for recruitment for these Services was felt in 1946, one combined examination for the All-India and Central Services was held only in December 1947. Thus no examination for the All-India Services was held by the British Civil Service Commission after 1943.
- (6) 1947-to-date : From August 15, 1947, the British Civil Service Commission ceased to have any association with the Indian Public Service. Both in law and in fact, since then the superior classes of the Central Services and the All-India Services had only one statutory recruiting agency. With the inauguration of the Constitution of India on January 26, 1950, the Federal Commission became the U.P.S.C. Since the advent of Independence the practice of appointing persons to the public service on a communal basis has ceased. However, reservations are made in public appointments for the Scheduled Castes and Scheduled Tribes.

<sup>5</sup> Barker, *op. cit.*, para 33; and Islington Report, *op. cit.*, para 46.

DIAGRAM-1

DEVELOPMENT OF  
RECRUITING AGENCIES FOR HIGHER SERVICES



U.P.S.C. — UNION PUBLIC SERVICE COMMISSION

F.P.S.C. — FEDERAL PUBLIC SERVICE COMMISSION

B.C.S.C. — BRITISH CIVIL SERVICE COMMISSION

P.S.C. — PUBLIC SERVICE COMMISSION

(A) 1. RECRUITMENT PROBLEMS IN THE POST-  
INDEPENDENCE PERIOD

It may now be desirable to mention the factors that have contributed since Independence to an increase in the Commission's activities consequent to the transformation of the Government. One immediate impact of Independence and partition of the country was that the service structure at the higher levels was left in a depleted form with the emigration of the senior British and Muslim officers to U.K. and Pakistan respectively. In



August 1947, the strength of 922 officers in the I.C.S. was reduced to 422. Secondly, as a result of the constitutional changes of 1947, an Indian Foreign Service had to be constituted for the first time. Thirdly, with the integration of the Indian Princely States with the Indian Union, their officers had to be absorbed in suitable posts. Fourthly, the acceptance of the objectives of a Welfare State and the shift in the public approach to the Administration, necessitated alterations in the character of the Government.<sup>6</sup> Consequently, new departments and new services sprang up. The Commission had to cope with the increased demand for senior officers at the Centre as well as the need to fill gaps in the State cadres of the All-India Services.<sup>7</sup> During the seven years following Independence the strength of the higher services (I.C.S. and I.A.S.) rose from 422 to 1156. These developments were in addition to problems relating to post-War adjustments handed down to the new Government by its predecessor. To sum up, with the advent of Independence, the need for a new plan and reorientation of recruitment policy became imperative in the face of the increasing expansion and complexity of governmental functions and the desirability of converting the bureaucratic administration into a dynamic democratic administration befitting a socialist pattern of society.

All these developments resulted in some deviation from the established pattern of recruitment. *Ad hoc* Boards were appointed to meet these special requirements only as an emergency measure.<sup>8</sup> This arrangement differed from the normal routine in respect of the status and composition of the recruiting agency, qualifications for selection and the methods of selection. These Boards were established by the President. One of these Boards, which met in 1948 to recruit candidates for the

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<sup>6</sup> Article 38 of the Constitution specifically provides : "The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life."

<sup>7</sup> For quantitative expansion of the services at the Centre, see Appendix 4.

<sup>8</sup> An *ad hoc* Recruitment Board was set up when recruitment to the Indian Foreign Service was held for the first time.

I.A.S. was presided by the Secretary of the Ministry of Home Affairs.

In pursuance of sub-rule (3) of rule 4 of the Indian Administrative Service Recruitment Rules, 1964, the Central Government, after consultation with the State Governments and the Union Public Service Commission, framed regulation for Special Recruitment Board for the I.A.S. in 1956<sup>9</sup> and for the I.P.S. in 1957. The Regulations of 1956 stipulate that the Special Recruitment Board is to be presided by the Chairman of the Commission or any Member nominated by him. Besides the Chairman of the Board, there are to be two other members, one senior serving or retired officer of the Government and the other a non-official. But these Selection Boards including the one which was established in the wake of Independence by the Central Government for recruitment to the Indian Foreign Service, had no organic relationship to the Commission. These Boards were assisted by a staff specially provided by the President.

The qualifications for selection of candidates through this special recruitment arrangement, were different from the normal ones. First, the minimum age requirement was relaxed to give preference to persons who had a number of years of service. The method of selection was also unlike the normal procedure. The emphasis was primarily on a scrutiny of the applicants' record of service followed by an oral test. Alternatively, "screening" through a written examination was followed by an oral test. In other words, there have been two methods of Special Recruitment:<sup>10</sup> (i) by promotion of persons already in government service, and (ii) by direct recruitment. But the I.P.S. (Special Recruitment) Regulations, 1957, provided only one method, namely, that the Central Government could recruit to the Service by promoting members of the State Police Service, in excess of the normal promotion quotas; this was to be done in consultation with the Commission.

<sup>9</sup> Handbook of Rules and Regulations for the All-India Services, Vol. 1, 1958, Government of India, Ministry of Home Affairs, contains Rules of Special Recruitment Board for the I.A.S. and I.P.S. at pp. 12-15 and pp. 38-39.

<sup>10</sup> Rule 3 of the I.A.S. (Special Recruitment) Regulations, 1956.

Where the Commission was not associated with these Boards, the recommendations of the Boards were placed before the Commission for endorsement before they were given effect to by the Government.<sup>11</sup> In all these emergency recruitment devices, there was a greater readiness to rely on the practical experience of the candidate, although an evaluation of his potentiality was also an important factor.

## 2. THE NORMAL PATTERN OF RECRUITMENT

The Indian system of direct recruitment<sup>12</sup> to the bulk of the public service enlists young people direct from Schools or Universities on the basis of general examinations. It thus places a premium on recruiting personnel just as they enter the labour market. This practice is widely followed in Britain and in most European countries. The system is in contrast to that obtaining in U.S.A. where the bulk of the public service is recruited from mature persons on the basis of test related to their work and experience; in other words, persons are taken from the open market to fill public positions. Recruitment *before* rather than *after* experience is the general rule in India.

For certain posts in respect of which specific provision has been made by a general or special order of the President, the emphasis is on 'practical' knowledge of the job. These positions which constitute a small fraction of the public service, have increased in number. Generally, the Commission fills vacancies in such services through interview, sometimes preceded by written examinations aimed at reducing the number of candidates. Applicants for these posts may be from within or without the public service.

Thus, the recruitment activities of the Commission may

<sup>11</sup> This happened in the case of selection made to the I.F.S. in the initial stage.

<sup>12</sup> The term 'recruitment' has been used in a broad sense. It is that process which actually begins on receiving requisitions from the operating agencies and ends with the transmission of a list of candidates selected on the basis of a competitive examination or interview, and ranked in order of merit. In other words, it covers all the intervening stages between the creation of the post and appointment of the selected candidates.

broadly be viewed from two standpoints : (a) recruitment to organised/career services, and (b) recruitment to isolated/specialist posts/services. The career services, such as the All-India Services and the Central Services, presuppose the existence of a number of career hierarchies, and the regular occurrence of a sizeable number of vacancies periodically. No specialised training or experience is expected for entry into the services. In other words, positions are filled on the basis not of technical qualifications for the job but of the capacity for growth and development. Recruitment is normally made from fresh graduates to the bottom rungs of broadly conceived and well-integrated ladders of positions, on the basis of a competitive examination which may or may not be followed by a viva voce/personality test. The higher levels are filled by promotion. Recruitment is normally made at a relatively early age, the more promising officers moving upward throughout their public service lives.

The specialist posts in contrast, are more or less discrete positions which generally cover various technical and specialised services and require "ready-made" personnel with experience in the field concerned. Moreover, recruitment is made at various levels, not necessarily at the lowest level, as persons have to be up-to-date in their scientific and technical knowledge. Recruitment to these posts is not susceptible to the written examination method and is usually made by means of an interview by a Board consisting of the Chairman/Member of the Commission, representatives of the Ministry/Department and experts in the field concerned, co-opted by the Commission.

The Commission is mainly concerned with recruitment to the All-India Services and Class I and Class II of the Central Services in the first category of recruitment. As regards the second, except where the posts are reserved for the career services, all specialist posts in Class I and II are filled through advertisement or personal contact by the Commission. The national development programmes have caused a shift of degree of forms from "career" to "programme" staffing. Thus during 1950-1959 if there was  $1\frac{1}{2}$  times increase in the I.A.S. posts, in the specialist posts the increase was about two times.

### 3. THE COMPETITIVE EXAMINATION

The U.P.S.C. follows two different methods of recruitment to the two categories of employments popularly known as: (i) competitive examination; and (ii) selection by interview. The competitive examination consists of a written examination with or without a personality test. Where the personality test is an integral part of the examination, only those candidates are interviewed who have been selected on the basis of the written examination. The aggregate marks obtained in the two tests are the determining factor in establishing the rank of the successful candidates. In selection by interview the screening of applicants is followed by an interview. Sometimes when the number of applicants is too large or when an interview is not considered a sufficient guide to selection, practical tests or written examinations are held as a means of reducing the number and for supplementing the interviews in filling posts like journalists, editors, and photographers. As the written examination in this respect is more a qualifying than a competitive device, marks obtained in the interview ultimately determine the results.<sup>13</sup>

Thus the two terms seem to be slightly misleading for they do not convey the exact content of their respective schemes of examination. Both are essentially based on the principle of competition, for, in both cases, the basis of selection is the relative merit and suitability of the candidates for the job; in the absence of more than one candidate, suitability alone is the determining factor in selection. These two methods may be distinguished only in regard to the objects for which they are employed. The objects of the former correspond to those of the organised and career service and those of the latter to those of specialist posts, referred to earlier.

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<sup>13</sup> When an examination is competitive, the candidates who pass are arranged in order of merit, the criterion being their performance in the examination. In case of qualifying examination, the successful candidates may be or may not be listed in order of merit. Normally, in the case of the latter, the successful candidates are listed in serial number order, i.e., roll number order. Alphabetical lists are, however, prepared later only to help locating applicants.

Recruitment by competitive examinations, especially the written examination, combined with the personality test, may be said to be a most 'stream-lined' method of recruitment. "This method lends itself to the best form of planned and rationalised recruitment."<sup>14</sup> However, some of its inherent shortcomings will not escape notice when applied to isolated posts or to *ad hoc* recruitment. It is expensive, slow and cumbersome for it involves a time-consuming process and is conducted only on the basis of anticipated requirements.

Among the competitive examinations conducted by the Commission regularly, the Indian Administrative Service etc. examination deserves special mention.<sup>15</sup> It is held for recruitment to the Indian Administrative Service, the Indian Foreign Service, the Indian Police Service, the Delhi and Himachal Pradesh Police Service, Class II, and for several Central Services. The first combined examination for I.A.S. & I.P.S. and eight Central Services was held in December 1947. With effect from the examination held in 1961, this examination is treated as comprising three separate and distinct examinations for three categories of services.<sup>16</sup> Now they are (i) I.A.S. and I.F.S., (ii) I.P.S. and Delhi, Himachal Pradesh and Andaman and Nicobar Islands Police Service, and (iii) Central Services and Delhi, Himachal Pradesh and Andaman and Nicobar Islands Civil Service. Candidates (except those belonging to a Scheduled Caste or a Scheduled Tribe, to the former French Settlements, or to the Andaman and Nicobar Islands) are not eligible to compete more than twice for each of these three categories of services.<sup>17</sup>

Except in the case of certain examinations, e.g., those held for Assistants' Grade, Clerks' Grade and Stenographers, the

<sup>14</sup> Rajendra Lal, Paper on Union Public Service Commission, *op. cit.*, p. 8.

<sup>15</sup> For details in regard to the competitive examinations held by the Commission, e.g., in 1960-61, see Appendix No. 2.

<sup>16</sup> Eleventh Report of the U.P.S.C., 1960-61, para 37 (i).

<sup>17</sup> This decision was taken in December 1959 in pursuance of the recommendations of the Public Services (Qualifications for Recruitment) Committee set up in 1955; vide the Eleventh Report of the U.P.S.C., para 37 (i) p. 25. It was first given effect to in August 1960. For details in regard to educational qualifications, age-limits and scheme of examination refer to the Handbook of Examinations, U.P.S.C., the General Manager, Government of India Press, New Delhi, 1962.

scheme of examination consists of a written examination and a personality test of candidates who are considered suitable for interview on the basis of the written examination. The I.A.S. etc., Combined Examination comprises three categories of papers : compulsory, optional and additional. The compulsory papers are taken by all candidates for the Combined Examination. As regards optional papers, candidates for I.A.S. or Central Services choose three papers, while those for I.P.S., Delhi and Himachal Pradesh Services select two papers. Candidates who wish to be considered for the I.F.S. and the I.A.S. are required to offer two additional papers. The compulsory group of papers consists of three papers, i.e., Essay, English and General Knowledge, and the optional group of papers comprises a wide choice of optional subjects without emphasis on any particular subject relating to the administrative field (Tab. 4).<sup>18</sup>

The position of the candidates in the common list relating to the Central Services determines, by and large, their allotment to the different services for which the examination is held. However, some weight is given to the preference signified by the candidates.

Table No. 5  
Nature of Testing Techniques

<i>Sl. No.</i>	<i>Name of Examination</i>	<i>Additional Method of Assessing Candidates' Quality</i>
1.	The Survey of India, Class I	Practical Examination.
2.	Special Class Railway Apprentices' Examination	Personality test also includes Intelligence and Mechanical Aptitude Tests.
3.	National Defence Academy ) Examination )	Personality test includes a series of intelligence tests by the Services Selection Board of the Defence Services Wing.
4.	Indian Military Academy ) Examination )	
5.	Air Force Flying College ) Examination )	
6.	Indian Navy Examination )	
7.	Army Medical Corps Examination	Practical and oral professional tests and interview by the Army Medical Corps Selection Board.

<sup>18</sup> For details in respect of the I.A.S. etc., Examination, see Appendix 11.

Table No. 4  
Scheme of I.A.S. etc., Examinations

Name of Service	Written Examination						Total Maximum Marks in Written Examination	Percentage of the Grand Total	Maximum Marks for Personality Test	Percentage of the Grand Total	Grand Total of Marks
	Compulsory Subjects		Optional Subjects		Additional Subjects						
	No. of papers	Maximum Marks in each paper	No. of papers	Maximum Marks in each paper	No. of papers	Maximum Marks in each paper					
I. a) I.A.S.	3	150	3	200	2	200	1450	83%	300	17%	1750
	3	150	3	200	2	200	1450	78%	400	22%	1850
II. a) I.P.S.	3	150	2	200	—	—	850	81%	200	19%	1050
b) Delhi & Himachal Pradesh Services	3	150	2	200	—	—	850	81%	200	19%	1050
	3	150	3	200	—	—	1050	84%	200	16%	1250
III. Central Services	3	150	3	200	—	—	1050	84%	200	16%	1250



For the Assistants' Grade and Stenographers there is no oral test; but there is a type-writing and a shorthand examination for the Clerks' Grade and Stenographers respectively. As for certain services and posts written examination and personality test are considered inadequate to assess the qualities of the applicants, other methods have been devised. Thus the following categories of examinations include tests shown against them in addition to written examination and personality test (Table 5 on previous page).

Examinations to be held by the U.P.S.C. are notified in the Gazette of India and generally in the Saturday issues of leading English and language daily newspapers, chosen to ensure that they reach all parts of the country and all the potential candidate population. Full particulars regarding conditions of eligibility of candidates are given in the rules for each examination, a copy of which is supplied to candidates with the application form.

The scheme of competitive examinations for direct recruitment to the administrative and most of the executive services serves the following three objectives<sup>19</sup>: (a) to test capacity for effective thinking, sense of form, power of clear and lucid expression, and general knowledge through a written test, common to all candidates (i.e., test in compulsory subjects); (b) to test intellectual ability and scholastic attainments through a written examination in subjects of the candidate's choice (i.e., optional subjects) which may or may not have any direct relevance to the civil servant's work; (c) to assess through an interview the candidate's personal qualities and potentiality, which cannot be tested by a written examination. These objectives echo the faith in the value of scholastic discipline and attainments first propounded by Macaulay in the thirties of the last century.

The method of competitive examination as against selection by interview has passed through two stages since 1855 when it was first instituted for entrance to the higher ranks of the Indian public service. Until 1917 the competitive examination consisted

<sup>19</sup> This aspect of the competitive examinations was fully discussed at a Seminar on "Recruitment and Training for Public Service", organised by the Indian Institute of Public Administration, New Delhi, on March 3, 1957, Indian Journal of Public Administration, Vol. III, 1957, 152-157.

of a written test without the accompaniment of an oral test. Certain administrative advantages have accounted not only for its persistence as a measure of testing relative merit and suitability of the candidates for entrance to the higher classes of the service, but for its adoption for entrance to the lower classes. The written form can be given to a large number of candidates at the same time, thus conserving the time of the examiners. It is easier and cheaper to administer than the oral test. By and large, it is easier to evaluate objectively.

But the written form is accompanied by certain serious disadvantages. The most weighty argument in regard to assessment of candidates for positions carrying greater responsibility, is the difficulty of evaluating the personal qualities and potentiality including certain intellectual qualities in a reliable manner. It was in 1922 that, in pursuance of the recommendation of the Islington Commission, oral test was made an integral part of the competitive examination for entrance to the higher services at the Centre.

The device of "interview" to assess the personal aptitude of the candidates for public posts assumed different forms in India. As a matter of fact, the interview as a means of testing the suitability of candidates for public service is older than the written examination. In the early period of the East India Company, candidates for "writership" were interrogated by the Court of Directors as regards their qualifications, personal aptitude and previous experience. Under a resolution by the General Court in 1809, the interrogation of candidates became a regular and established rule.<sup>20</sup> Success in the viva voce test, was a condition precedent to admission to the Haileybury College. The interview returned to vogue in 1909 in U.K. when the managers of the new labour exchanges were selected by interview alone.

Under the Islington scheme of oral test, the examiners were to call up for an oral examination the candidates who had distinguished themselves in the written papers; the oral examination was to be partly on one of the subjects offered in the written examination selected by the candidate and partly on

<sup>20</sup> Misra, *The Central Administration of the East India Company, 1773-1834, op. cit.*, pp. 411-412.

general information. A little over 10 per cent of the total marks were allotted for the oral examination.<sup>21</sup> After the First World War the interview again became part of the regular selection process for the superior services both in India and in U.K. and about 20 per cent of the total marks were set aside for the interview.

The year 1943 witnessed a significant change in the method of competitive examination in India. It was prescribed that year that failure in the viva voce disqualified a candidate, however brilliant his performance might have been in his written papers. The principle was first applied to the Indian Audit and Accounts Service examination.<sup>22</sup> As a matter of fact, as early as February 1927, the Public Service Commission was asked to tender its advice on the feasibility of the introduction of this principle. The Commission was not prepared to recommend the adoption of the proposal, for it considered that it would inevitably reduce the general effectiveness of the viva voce examination. Elaborating its view-point, the Commission suggested that it was impossible in considering the subject to overlook the fact that wide differences existed both between individual examiners and between boards of examiners in estimating the qualities of candidates at a viva voce examination, and the imposition of a minimum mark would certainly give rise to much criticism.<sup>23</sup> The Commission's apprehension turned out to be true after a few years of its introduction in 1943. The whole question of the efficacy of interview as an instrument for assessing mental qualities, came in for strong and vehement criticism both in the Press as well as in Parliament. In its very First Report, the U.P.S.C. took notice of the complaints that something must be wrong with a system of interviews in which candidates scoring high marks in the written examination fail to qualify. "A written test", the Commission maintained, 'is no doubt some evidence of the intellectual development of the candidates; but with the widely acknowledged deterioration in

<sup>21</sup> Report of Islington Commission, *op. cit.*, Vol. I, See Annexure X, para 10, Schedule 1, pp. 200-201.

<sup>22</sup> First Report of the U.P.S.C., para 12.

<sup>23</sup> Proceedings of the Public Service Commission, Letter to the Secretary to the Government of India, Home Department, 4th February, 1927.

the standards of our University degrees, it has become in many cases more the evidence of the power to memorise book knowledge than of genuine mental qualities—the viva voce test is, therefore, designed primarily to assess those mental qualities which taken together may be said to constitute “personality”, “brain” or “intellect” being left to be assessed by written examination!”<sup>24</sup>

However, the real issue was whether a minimum standard in the “personality” test should be made compulsory. Therefore, the Commission devoted increasing care to conducting these tests. It considered the feasibility of the introduction of the British “house party” system of the personality test later included in Method II which is different from the pre-war system of examination, now called Method I.

Method I is somewhat on the lines of the Indian system of competitive examination for the superior services. It is still being used for recruitment to the majority of vacancies in the Administrative Class of the British Civil Service. In Method II candidates are selected from Honours’ graduates of the British Universities, after a qualifying written test in general knowledge and an essay. They are then put through a prolonged set of personal tests and interviews, in less artificial conditions. These tests for each batch of candidates last for two to three days and the candidates are tested in a different setting, each day. Method II was adopted in the United Kingdom after the Second World War, as the number of applicants under Method I fell off and even graduates avoided the strain of a trying written examination in several subjects when they could secure quick employment in business and industrial concerns.

Although the U.P.S.C. did not encounter any such problem in respect of recruitment to the higher and intermediate classes of the service at the Centre, it aimed at incorporating certain elements of Method II to meet the prevailing criticism of the personality test during the first half of the fifties. The Commission was of the opinion that various means such as discussions, group meetings, etc., used under Method II gave a better indication of the personal qualities of candidates than under Method I.

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<sup>24</sup> First Report of the U.P.S.C., para 12.

However, there were certain practical difficulties. The experts for such an ambitious test, were not available in the country. The numbers that the Commission had to handle were very much larger than those who appeared before the British Civil Service Commission. Lastly, such prolonged tests would have delayed the completion and publication of the results of the annual examination.

In a way, the Indian counterpart of the British Method II was adopted for Post-War Recruitment to vacancies reserved for war service candidates and temporary Government servants. Use of psychological tests on the model of the Army Selection Boards was tried. There were in all four Selection Boards at Dehra Dun, Poona, Madras and Bangalore, each with a President, a Group Testing Officer, a psychologist, a psychiatrist, etc. All candidates were first put through one of these Boards which graded them into eight categories marked I, II, III, IV A, IV B, V, V A and V B. Only the first four categories were sent up to the final Interview Board. This method, however, proved to be a temporary expedient in view of the practical difficulties involved in handling a large number of applicants.

Since the principle of the compulsory minimum marks for the personality test gave rise to adverse criticism, the Commission made two experiments in the field, with a view to elaborating the interviewing technique. First, impressed by the Method II of U.K., it tried to incorporate its essence by extending the time to half an hour for the interview of each candidate, and by supplementing the interview with a debate each for the I.A.S. and I.F.S. in 1952. But it took the Commission three months in 1952 and four months in 1953, after the completion of the written examination to publish the results of the I.A.S. and I.F.S. selections. This led to vehement criticism of the time consumed in recruitment. Therefore, Government decided that with effect from the Combined Examination of 1957, there should be no minimum qualifying marks for the personality test.<sup>25</sup> In 1957, the Commission replaced group discussion which followed the interview, with "the resume". Under this device the candidate is expected to write

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<sup>25</sup> Eighth Report of the U.P.S.C. 1957-1958, para 6 (4).

immediately after the interview, a short summary of the discussion he had had with the Interview Board. In 1964, the maximum marks set for the personality test were further reduced from 400 to 300 for the I.A.S., from 300 to 200 for the Central Services and the I.P.S., but the maximum marks for I.F.S. continue to be 400.

In sum, the post-Independence development of the personality test comprises abolition of qualifying marks, incorporation of certain elements of Method II and reduction of maximum marks for all the higher services (excepting the I.F.S.). All this aims at meeting public criticism of the personality test as a channel for the exertion of undue influence, tending to result in the reduction of the importance of its role in sizing up the qualities of the candidates rather than in warding off outside influence on the Interview Board.

Normally the Commission functions through two Interview Boards, one for the I.A.S., I.F.S., Central Services and Indian Police Service sitting at Delhi only; and the second for the Central Services and the Indian Police Service sitting at Delhi and at various regional centres. Each Board comprises one or two Members of the Commission with the Chairman of the Commission presiding over one Board and nine or ten other persons chosen by the Chairman of the Commission and divided between the two Boards. These persons are mostly senior officials representing the different Ministries of the Government of India and one or two Vice-Chancellors of Universities. The Board has before it a record of the candidate's career but not the marks of the written examination. Marks obtained in the personality test are then added to the written examination marks for the final selection.

The post-Independence period has witnessed quite a few significant changes in the conduct of competitive examinations. Before the examinations for the I.C.S., I.A.&A.S., etc. were suspended in 1943 consequent to the Second World War, the written examination and the personality test were held concurrently. Both were held at one centre, i.e., New Delhi. As a large number of candidates would make this difficult, the number of candidates admitted to the examination was restricted. Rules for the examination contained a specific provision enabling the

Governor-General to restrict the number to be admitted. As a matter of fact, a preliminary weeding out was done for the I.C.S., I.A.&A.S. examinations to keep down the numbers. For this purpose candidates were arranged province-wise and in each Province they were categorised according to their academic qualifications and career. The result was that in educationally advanced Provinces like Madras, only candidates with high attainments were admitted, whereas in backward Provinces like Assam or Orissa, almost every one—including the lowest third class graduate—could be admitted. Obviously this was not providing equal opportunities to all.

When the examinations were resumed after the War, it was decided to hold them at the provincial capitals provided there was a sizable number of candidates—a step in the right direction for affording equal opportunities for all. Consequently, more candidates offered because it did not involve the cost of a trip to Delhi. The conduct of written examination at different provincial capitals did not cost much. As regards the viva voce, it was restricted to those who qualified in the written test.

#### 4. SELECTION BY INTERVIEW

Recruitment by interview is made by the Commission to such posts which cannot be filled by the competitive examination, promotion or transfer. Qualified and experienced personnel have to be found for these posts, who will undertake responsible duties immediately after appointment. Selection by interview for these posts is made on an *ad hoc* basis after the advertisement of the post with its requirements.

Sometimes the efforts of the Commission in attracting suitable candidates through advertisement prove infructuous. This happens often in regard to posts of very specialised nature. In such cases, the Commission employs the rather unconventional device of what is described by the Commission as “personal contact”. The Commission approaches universities, educational institutions, professional bodies, etc., with a request to suggest candidates with the requisite qualifications. Sometimes the Ministry/Department helps the Commission by locating the sources.

In regard to certain posts of very technical nature for which there has been persistent shortage of qualified candidates (as for example, posts requiring qualifications in Metallurgy), the Commission has adopted yet another device. The Commission calls it the method of 'continuous' recruitment. Under this method (which the Commission regards as an experimental measure) a general advertisement is issued for continuous recruitment against existing and anticipated requirements in respect of certain specified categories of posts. It is open to intending candidates to apply in response to the advertisement at any time during the year.<sup>26</sup>

Broadly speaking, selection by interview comprises the following main stages<sup>27</sup> :

(i) The furnishing of a requisition in a prescribed form by the Ministry/Department concerned to the Commission.<sup>28</sup>

(ii) The drafting of what is known as the I.F.C. (information for candidate) by the Commission, giving the duties, qualifications and other specifications of the post.

(iii) The issue of an advertisement (and resort to personal contact, where necessary, with educational institutions, etc.) giving only the important details of the post like age-limits, pay scale, qualifications and reservation, if any, for candidates belonging to the scheduled communities. In specified cases, however, after the requisition is received,<sup>29</sup> if there are suitable retrenched government employees or candidates recommended by the Director-General of Resettlement and Employment or by the Army Division Organisation they are considered first, before the posts are advertised. For each advertisement a closing date for submission of applications is fixed, allowing four weeks for local candidates and six weeks for candidates residing abroad, from the date of advertisement.

(iv) Screening of candidates and the preparation of a short list for interview on the basis of the information furnished by them in their applications.

<sup>26</sup> Thirteenth Report of the U.P.S.C., 1962-63, para 12.

<sup>27</sup> Cf. Rajendra Lal, *op. cit.*, pp. 9-10.

<sup>28</sup> For a copy of Requisition Form see Appendix 5.

<sup>29</sup> See Appendix 7 for the Requisition Form transmitted to the Commission.



(v) Reference to the Ministry asking for comments on this preliminary selection and suggestion for modifying the short list if necessary.

(vi) The actual interview which may be followed or preceded by a practical test.

(vii) The transmission of a letter of recommendation to the Ministry for the appointment of the candidate or candidates selected.

When the number of eligible candidates (i.e., those who satisfy the advertised conditions, i.e., age, education, experience, etc.) is very large, all are not called for interview. The Commission itself (i.e., the Member in-charge) would make out a short list of the best candidates and select up to ten for a single vacancy and up to six candidates for each post, when the number of vacancies is large.

A distinction should be drawn between the interview as part of the competitive examination and the selection by interview with or without the assistance of any other test. They may be distinguished as regards the objectives, the composition of the interviewing board and the rating of the candidates' qualities. The Commission prefers to call the interview which accompanies written examination in the competitive examination as "personality test".<sup>30</sup> The primary object of such a test is not to test the knowledge of a candidate (which was the object of the oral examination proposed by the Islington Commission); it is rather to size up his personal qualities and attitudes which may not have been assessed through the written examination. Some of the qualities to be judged are mental alertness, critical powers of assimilation, clear and logical exposition, balance of judgment, variety and depth of interest, ability for social cohesion and leadership, intellectual and moral integrity. The interview is not a strict cross-examination, but a natural, though directed and purposive conversation which is intended to reveal the mental quality of the candidate.<sup>31</sup>

The selection by interview as against the personality test, is to test not only the general suitability of the candidates for the

<sup>30</sup> Second Report of the U.P.S.C., 1951-52, para 9.

<sup>31</sup> Roy, N.C., *op. cit.*, and Forward (by N.K. Sidhanta who acted as a Member of the Commission), p. XI-XIII.

post but also their technical knowledge and experience. The Commission is assisted in this assessment by technical advisers from outside the Ministries as also by representatives of the Ministries concerned. The representatives of the Ministries help the Interview Board in regard to the requirements of the job; and the Advisers assist in testing the candidate's technical knowledge and experience.<sup>32</sup> The Commission's Member presiding determines the suitability of the candidate on the basis of the opinions of the Advisers and the representatives of the Ministries.<sup>33</sup>

Before the reliability of various techniques of examination employed by the Commission, is assessed it is desirable to discuss the importance of the provision of travel allowance for the candidates called for interview. Originally no travel allowance was paid to the candidates resulting in detraction from the Commission's principle of equal opportunity and competitive selection. The interviews were held only at Delhi/Simla with the possibility that a really brilliant candidate from the far South or East might be deterred by the cost of travel, with no guarantee of appointment. It was, therefore, decided to meet the travel expenses of candidates by paying the second class railway fare each way.

Formerly, candidates coming for the viva voce/personality test in connection with the competitive examination, were not paid any travel allowance. But it was decided later to give the travel allowance contribution to candidates for the I.A.S., etc., Combined Examination and later still to Engineering Examination candidates.

## 5. RELIABILITY OF THE METHODS OF EXAMINATION

Although no special research has been undertaken so far, it would seem that the competitive examination has produced

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<sup>32</sup> The Commission has a say in selecting its own Advisers for the Interview Boards without prior sanction of the Government as is the case in certain States.

<sup>33</sup> Decisions are taken in intimate consultation with the departmental representatives and the Advisers, by the U.P.S.C. as also by some of the State Commissions.

competent personnel. However, one aspect of the existing recruiting arrangement deserves close examination. Excepting the discrete technical and specialist posts which are growing in number with the growing complexities of governmental functions, the public positions are organised in the form of career posts and services, with an emphasis on the filling of vacancies in the higher cadres on the basis of merit from the lower posts. Although 'accelerated promotion' for promising employees is one of the pre-requisites of a sound personnel system, it would be difficult to refute the contention that such a system closes entrance to public positions for the "late flowering" type and does not permit interchange of personnel between private and public administration. Indeed, this basic change will be in consonance with the spirit of a democratic set-up and meet the pressing need emerging from the assumption of the responsibilities of the welfare state.

The post-Independence device of Special Recruitment which was instituted as an emergency measure to overcome the dearth of senior officers consequent to the migration of British and Muslim officers, deserves special mention in this connection. If this arrangement is allowed to continue as a regular feature, the above-mentioned shortcomings inherent in a career service could be set aside. Under this pattern, entry into the public service will attract good talent from non-government sources with the relaxation of minimum qualifications like age, etc. and without the strain of a trying written examination.

As regards the techniques employed both in normal and in emergency recruitment, recruiting agencies have frequently been subjected to criticism. Criticism in regard to the personality test and selection through interview, as Stahl suggests, involves three considerations:<sup>34</sup> (i) the difficulty of developing valid and reliable oral tests; (ii) the difficulty of securing a reviewable record on an oral test; and (iii) public suspicion of the oral test as a channel for the exertion of political influence (through the destruction of anonymity)<sup>35</sup>... It may be pertinent to mention

<sup>34</sup> *Op. cit.*, p. 92.

<sup>35</sup> For an illustration in regard to public suspicion of the personality test, read the speeches of the Members of Parliament in connection with the 12th Report of the U.P.S.C., the extracts of which were given in the Hindustan Times, 10 and 11th September, 1963.

Sir Ross Barker : "My experience, which has been chiefly confined to cases in which the number of candidates was not so large, is that the whole process is dangerous and infinitely hazardous. I think most selection committees on which I have served have been very doubtful about the results of what they had done. They have done their best on insufficient materials. The process is I think fairly successful in weeding out the worst candidates. I do not think it is successful in selecting the best, and I think in the process of weeding, some of the best candidates are apt to be weeded out. Actual cases of proved errors have occurred, e.g., when a candidate selected by a selection committee for a superior service has been rejected for an inferior service, where a candidate selected to be admitted to an examination one year and got a very high place in that examination was not even selected in the following year to sit for the examination, where A has been preferred to B by one selection committee and about a week later another selection committee, very similarly constituted, has preferred B to A."<sup>36</sup>

At the same time, it cannot be denied that an exceptionally brilliant candidate may also be a social misfit and would, if he were selected, be a total failure in the public service. These considerations bring in sharp focus the question of selection criteria for "selectors". There are three general points of view. First, the raters should be experts in the field for which the candidates are being considered. Secondly, the interviewers should be expert in judging people. The third point of view is a compromise which utilises both experts in the subject-matter field and trained psychologists or psychiatrists. While experts in the subject-matter field are drawn from among outside people who have made a name in the field, suitability is determined by consultation between these outside experts and representatives of the Departments concerned and Members of the U.P.S.C. For selection to the civil posts no psychologists or psychiatrists are included in the selection board, although in the defence service the use of trained psychologists is not unknown. It is hardly necessary to emphasise that their use will enable the Commission to assess certain qualities of leadership, such as, social adaptability, functional capacity and group effectiveness.

<sup>36</sup> Barker's Memorandum, *op. cit.*, para 62.

These qualities are not always amenable to assessment either by a written test or by a short interview, where a candidate inevitably tries to cover up his drawbacks for a short period by deliberate and conscious effort.

As referred to elsewhere, an important practical difficulty in adopting new methods of testing the mental qualities of the candidates, i.e., psychological tests and prolonged testing measures on the lines of Method II for the public service is the grave disparity between the large number of applicants and the very limited number of vacancies. This huge disparity is growing in size and number. For instance, if during 1950-51 the position in regard to the I.A.S. etc., examination was that for every vacancy there were about fifteen applications out of which twelve took the written examination and three were interviewed. But during 1960-61 for every vacancy there were about thirty applications, out of which seventeen took the written examination and three were interviewed. This gives rise to the question of how to exclude the lesser qualified candidates with a view to keeping down the number. The situation will improve if entry into the higher services, i.e., All-India Services and Class I and Class II of the Central Services, is restricted to those who possess at least a Second Class Degree, whether graduation or post-graduation.<sup>37</sup> This elevation of academic qualifications will reduce to a very large extent, the wide disparity between the number of applicants and the number of vacancies, for Third Class graduates constitute a very large proportion of applicants for these services. This will enable the Commission to improve its procedure mainly by the adoption of new methods—which are now ruled out by the number of candidates for the competitive examination running into thousands.<sup>38</sup> Further, delay in all stages of testing will be reduced to the minimum.

Restriction of entry into the higher services to Second Class

<sup>37</sup> It may be noted that under Method II of the U.K. the candidates should possess a Second Class Honours Degree.

<sup>38</sup>

<i>I.A.S. etc. Examination</i>			<i>Those who took</i>	<i>Those who took</i>
<i>Year</i>	<i>Posts</i>	<i>Applicants</i>	<i>written Exam.</i>	<i>Interview</i>
1950-51	240	3647	2797	806
1960-61	345	10376	5873	946

Degree-holders, will not involve any quantitative or qualitative loss. For Table No. 6 indicates how from 1950 to 1955, of the 1,418 candidates selected for the higher services at the Centre through open competition, 152 possessing a Third Class Degree, constituted 10.7 per cent of the total. Some of Third Class post-graduate Degree-holders who possessed a Second Class graduation Degree, would have been permitted to take the examination, under the proposed scheme. This may pose a question that a Second Class graduate of one University need not necessarily be more suitable than a Third Class graduate of another University because of varying standard. The same thing may be said of the present minimum academic qualification, namely, graduation Degree of the University.

Table No. 6

**Classification of the candidates Successful in the I.A.S. etc. Examination who had obtained Third Division in their University Degree Examinations.**

Year	Post-Graduation Degree-holders		Graduation Degree-holders		Total No. of candidates Third Division		Total No. of selected candidates
	Number	Percentage	Number	Percentage	Number	Percentage	
1950	7	3	6	2.5	13	5.5	240
1951	13	5.5	10	4	23	9.5	231
1952	8	3	14	6	22	9	232
1953	17	9	17	9	34	18	189
1954	12	5.5	14	7.5	26	13	186
1955	20	5.5	14	4	34	9.5	340
6 years	77	5.2	75	5.5	152	10.7	1418

This assumes the importance of the follow-up of the selected candidates. Under the existing arrangement, the Commission has the Research Unit which obtains from the Departments and Ministries concerned annual assessment reports on the performance of recommended candidates for a period of two years after they join. The analysis of such reports is scrutinized by the Commission every year. It is difficult however, to assess the value of methods of recruitment in the light of the figures given in the Ninth, Tenth and Eleventh Reports. The first two of these Reports were based on a sample analysis, and did not present

the total picture. The Eleventh Report assessed the performance reports of all candidates selected by the Commission.<sup>39</sup>

Table No. 7  
Follow-up of the selected candidates

	<i>Satisfactory performance</i>	<i>Unsatisfactory performance</i>	<i>Of Mixed Character</i>
1. Ninth Report : (Sample analysis)	94.5	1.1	4.4
2. Tenth Report : (Sample analysis)	92.9	2.5	4.6
3. Eleventh Report :	93.80	3.76	2.44

Indeed, the follow-up scheme if properly worked, should give very useful results. It would enable the Commission to conduct post-mortem on recruitment. It is on the systematic maintenance of these records that assessment of recruitment techniques will depend. Similar data should be collected on persons processed by the Commission at the time of their entry into the public service who are now holding senior posts; for the validity of a selection technique may be tested in terms not only of the selected candidates' immediate competence for the jobs for which they were selected, but also their promise in senior posts. The real resting time of recruitment methods is 15 or 20 years after recruitment, at the time the recruits have risen to positions of responsibility. It is only then, that it is possible to say with confidence whether the system of recruitment has been a success. If a system of recruitment is to be judged not only by its success but by its glaring failures, the follow-up scheme needs special consideration.

#### (B) 1. CERTIFICATION AND APPOINTMENT

The process through which employees enter the public service whether through direct recruitment or otherwise, consists of four steps: (1) requisition, (2) selection, (3) certification, and (4) appointment. A Department having a vacancy (falling within

<sup>39</sup> Ninth Report, para 17; Tenth Report, para 18; Eleventh Report, para 21.

the purview of the Commission) applies to the Commission on a "requisition" form. In other words, the operating agency communicates its requirements of personnel to the Commission. The requisition form includes information concerning the number of openings, the titles of the position or positions, the duties entrusted, qualifications required and the salary to be paid. This stage of requisition pre-supposes the existence of Recruitment Rules framed by the Department in consultation with the Commission. Where the Recruitment Rules of a particular post have not been framed, broad decisions are taken in consultation with the Commission on the main questions relating to the method of recruitment, leaving aside the details of the Recruitment Rules to be finalised later.

On receiving the requisition, the Commission locates candidates by advertisement or other means and prepares a list of selected candidates in order of merit based on the results of the competition—whether by direct recruitment or promotion—and forwards the list of the candidates so arranged to the Department concerned. In other words, the Commission certifies in its letter of recommendation, the suitability of the selected candidates for appointment in the order of preference.

Before 1946, the Commission was normally required to furnish three names of suitable candidates arranged in order of merit for each vacancy. However, under "Instructions for Regulating the Procedure of the Federal Public Service Commission" issued by the Governor-General that year, the Commission was required to submit a list, consisting of such number as he might fix, of the candidates whom it considered most suitable for appointment, in order of preference. Moreover, when recruitment was made by selection, owing to the failure of a competitive examination to give adequate representation to different communities, the Commission used to make its recommendation of candidates in accordance with such orders as the Secretary of State for India or the Governor-General-in-Council, as the case might be, might pass in this behalf. The system was devised to provide adequate representation to different communities in the public service and not to select the best material.

A significant step was taken on June 17, 1946, discarding the



rule-of-three. Under the orders issued on that date, the Commission was thereafter, required to furnish the name of only "one candidate for each post". The operating agencies were enjoined to appoint only the person recommended by the Commission, save in exceptional circumstances. However, the Commission was required to keep two or three names in reserve for each vacancy, in case the candidate selected was subsequently found unfit or was unable to join the appointment for any reason.

The "rule of one" as the new system may be called, has come to stay. Those supporting the existing arrangement argue that the merit system would be undermined if any candidate other than the one who topped the list is certified.

The rule-of-three procedure is largely based on the assumption that the competence of the recruiting agencies is limited. They are not in the know of the special requirements of the operating agencies. They are allowed to select the three best candidates, one of them to be finally chosen by the operating agencies according to their special requirements. Their final say in the matter is justified on the ground that it is the operating agencies and not the recruiting agencies which are ultimately responsible for the success of their programmes. However, under the rule-of-one system obtaining in India, this object tends to be fulfilled, as with all interviews for direct recruitment one or two representatives of the Department concerned are associated to enable the Commission to assess the qualities of candidates in the light of the actual requirements of the Department.

This in conclusion, involves considering the "suitability" of candidates not only with reference to qualifications, experience and performance in the written and/or oral test, etc., but also the character of the candidate. Before any candidate recommended by the Commission, is proposed to be rejected on the ground of adverse "character and antecedents", the Commission satisfies itself as to the propriety of the Government view on the case, before the next candidate from the reserve list is recommended for appointment. The Commission has not experienced any difficulty in regard to the treatment of such cases which are few and far between, although the

verification of character and antecedents is left to be done by the Government.

## 2. PROBATION

Almost every service provides for a probationary period before an appointee is confirmed as a permanent employee. And no appointment becomes final until he has demonstrated his capacity in his work. As Stahl points out: "The probationary period should be more definitely regarded by administrators as a part of the testing programme than it customarily is. It affords these officers, as well as the placement officers of the personnel agency, an opportunity to gauge those intangible factors and personal qualities not assayed by formal testing procedure. Indeed, it is a check upon the whole selection and placement procedure and provides means by which a square peg can be removed from a round hole or more completely fitted into a square one."<sup>40</sup> Moreover, no other step in the selection process is more likely to make the appointees feel that appointment is in the hands of the appointing authorities and not in those of the Commission, as the right of the operating agencies to reject any unsatisfactory employee.

The I.A.S. probationers undergo two years' training before they take a final examination conducted by the U.P.S.C. Till 1956, a viva voce examination also formed a part of the final examination, but now the final examination comprises written test in three papers on the basic principles of Indian Constitution and the Five Year Plans, on the basic principles and provisions of Indian criminal law, and in general (administrative) knowledge. The marks obtained by the candidates in the final examination are added to the marks they have obtained in the I.A.S., etc. examination for determining their relative positions in the combined list. At the end of this qualifying examination the probationers are confirmed in the service and are posted in the districts for further training.

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<sup>40</sup> Stahl, O.G., *Public Personnel Administration*, Harper and Brothers, New York, 1956, pp. 139-140.

## CHAPTER VII

### RECRUITMENT FROM INSIDE THE SERVICE

#### (A) 1. PROMOTION

The application of the cardinal principles of "equal opportunity for all" and "a fair field to merit without favour" is to be assured not only in the initial selection of officers for the public service, but also in their promotion to higher posts. This necessitates the Commission's association with staffing from within, like that from without. Moreover, promotion is a service matter in which both management and employees are deeply concerned. If efficiency and morale of the service are the guiding factors in promotion policy, promotion involves advancement to employees in terms of money and status. The Commission's role is therefore, tantamount to striking a judicious balance between the interest of management and the expectation of employees.

Before the role of the Commission is discussed, it may be mentioned here that the conditions for promotion from subordinate to superior services are ideal in India. Normally, no sharp line of division in regard to qualifications exists between candidates selected for the superior and subordinate services. So far as academic attainments are a test, candidates for Class I and Class II of Central Services have to take the same examination. The recruit in the subordinate service is only separated by a few marks or by a fraction of one mark from the recruit to the superior service. Therefore, promising youth in the lower service is given a chance for promotion to the higher service. This happens particularly in the case of Central Services. For Class I and Class II of the Central Services, there is not only a common recruiting agency, but also there is common examination, i.e., I.A.S., etc., examination.

The promotion system is in a way democratic in character. For, opportunities for advancement are afforded through the natural advantage of experience that insiders

have when vacancies are to be filled. This happens not only within grades in a class of the service, but also from one class to another. There are also regular promotions from a lower service to a higher one. Thus employees in the State Services with a prescribed number of years of service may aspire to promotion to an All-India Service. Incidentally, it may be mentioned that promotions from State Services to All-India Services tend to serve as a corrective device with democratic ends. They remove some of the unintended inequalities in regional representation caused by the method of direct recruitment. As statistical analysis yields, the State of Madras for instance, alone claims 24 per cent of the total number of recruits of the I.A.S., while eight States, namely, Andhra, Assam, Bihar, Kerala, Madhya Pradesh, Mysore, Orissa and Rajasthan, together account for only 23.6 per cent.<sup>1</sup> Promotions to the All-India Services from the State Services exercise a slight correcting influence in the matter of regional representation. Thus a sample survey of 203 officers promoted to I.A.S., from State Services in the country (out of a total number of 291 officers in position as on January 1, 1961) reveals the interesting fact that the eight under-represented States referred to above, account for 48.7 per cent of the total number, while the corresponding percentage in the case of direct recruitment was only 23.6 per cent.<sup>2</sup>

The idea of associating the Commission with service matters, like promotion, has assumed different forms. Before 1946 when an elaborate scheme of Departmental Promotion Committees went into effect, the Departments and Ministries concerned were to make selections for promotion. All such selections were referred to the Commission along with the Confidential Reports and reasons for the proposed selections. This procedure sometimes involved an exchange of protracted correspondence between the operating agencies and the Commission. Therefore, on June 17, 1946, the then Government

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<sup>1</sup> Rao, D.N., "Disparities of Representation in I.A.S." an Article, *op. cit.*

<sup>2</sup> Trivedi, R.K., and Rao, D.N., "Higher Civil Service in India—A Sample Survey", *Journal of the National Academy of Administration*, July 1961.

accepted the recommendations of the Inter-Departmental Committee which examined *inter alia* the aforesaid question with reference to the Central Services. The orders issued on that date require every Department to establish a system of Departmental Promotion Committees (hereafter D.P.C.) within a service and from lower classes to higher ones.<sup>3</sup>

The contribution of the system of D.P.Cs. to personnel administration in the Government of India is very significant. The system which has now become a bulwark of the merit system, was originally intended to fill the gap caused by the exclusion of certain services and posts from the purview of the Commission. In regard to the handling of promotion questions, it tends to steer a middle course between the two points of view : (i) The Commission being an outside body, is the right agency to reconcile the service interests with the public interest. (ii) In the interest of efficiency and discipline, the heads of administrative agencies should be charged with these matters.

The number of D.P.Cs. to be established, and their composition are determined by the Departments concerned, according to their own needs. The D.P.C. will ordinarily consist of the head of the Office or Department concerned, or an officer nominated by him, and of other officers of the Department who are familiar with the work of the candidates for promotion.

The basic object of this scheme was that the Commission should be associated with "all promotions to the greatest practicable extent" as against promotions to Central Service Class I only as was the case before 1946. Realizing the practical difficulty of the Commission's association with all D.P.Cs., the matter has been left for determination by the Departments concerned, in consultation with the Commission. The Commission deposes one of its Members to sit on all D.P.Cs. dealing with promotions to and within any Class I. Under an Office Memorandum issued on May 16, 1959, the Commission has to be associated in all cases whenever the D.P.C. is assembled for purposes of confirmation of officers—whether they be direct recruits or promotees—whose

<sup>3</sup> The orders envisaged posts belonging to certain categories of Services that were exempted from the purview of the D.P.C. Procedure.

recruitment falls within its purview.<sup>4</sup> Whenever the Commission is represented on the D.P.C. its representative presides over its meetings.

The Orders of 1946 lay down broad principles to be followed by the D.P.Cs. In the first place, the D.P.C. should meet periodically (at least annually) to prepare a list in order of merit of officers selected for promotion. It should in the alternative, hold *ad hoc* meetings for the purpose of making selections to particular posts whenever occasion warrants. Secondly, while each Committee is to decide its method and procedure for itself, the Commission should be consulted in the matter where the Commission is represented on the Committee. Further, the Orders specify that whenever the recommendations made by a Committee involve the supersession of an officer, the reasons for the supersession should be briefly recorded. This provision seems to have been made to avoid conjectures in case the superseded officer is permitted to go in appeal.

As regards the Commission's approval of the recommendations of the Committee, there are two types of cases : those which have to be compulsorily referred to the Commission; and those which may or may not be referred to it. In all cases which are to be compulsorily referred to the Commission, the mere fact that a Member of the Commission presided over the D.P.C., does not carry the Commission's sanction to those cases. So they have to be officially referred and the Commission's seal of approval obtained.

Recommendations made by the D.P.Cs. on which the Commission is represented, are treated as recommendations having the approval of the Commission. In all cases, where the Commission is represented on the D.P.Cs. or its advice is sought in respect of their recommendations, the convention regarding acceptance of its advice is followed. In other words, where the Commission's advice is not accepted, the Commission is given a chance to further elaborate its standpoint. If it is ultimately rejected, the Commission mentions it in its Annual Report and the Government is under a constitutional obligation to submit the Commission's Report to Parliament

<sup>4</sup> Eleventh Report of the U.P.S.C., 1960-61, para 25.

with a Memorandum thereon, justifying its action in the matter.

The meetings of the D.P.Cs. presuppose the framing of the Recruitment Rules of the posts and services referred to above. These Rules, it may be repeated, are drawn up in consultation with the Commission. Where the posts are to be filled through promotion, the Rules should stipulate what the field for promotion will be. Further, complete and up-to-date seniority lists of the persons to be considered should be made available to the D.P.Cs.<sup>5</sup> Under the Orders of 1946, where a D.P.C. follows the practice of maintaining a list of officers selected for promotion, no departure from the order in that list is made in making promotions to vacancies. But if under an administrative exigency any departure is made, no appointment continues for more than three months.

The existing promotion system which came into effect in pursuance of the Orders of 1946, has been left undisturbed by the Constitution. However, the Constitution specifies that the Commission will have to be consulted on "the principles to be followed in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers."<sup>6</sup> As regards the Commission's scope in the matter, the President is authorised to exclude any service or post from its purview. Accordingly, under the U.P.S.C. (Exemption from Consultation) Regulations, 1958, the Commission does not exercise its responsibility throughout the service at the Centre. Thus in the lower grades, promotion is left to the Ministries. The Commission is also not concerned with promotions within the All-India Services and Central Services, Class I and Class II.<sup>7</sup>

But the Commission is associated with all promotions from State Services to All-India Services like the I.A.S. & I.P.S. under the All-India Services Act, 1951. Twenty-five per cent of the vacancies in the I.A.S./I.P.S. are required to be filled by the promotion of officers, employed in the State Services. Selections for this purpose are made by Selection Committees,

<sup>5</sup> Cf. Rajendra Lal, *op. cit.*, pp. 10-11.

<sup>6</sup> Article 320 (3).

<sup>7</sup> U.P.S.C. (Exemption from Consultation) Regulations, 1958, Rule 3.

constituted separately in each State for that State's Cadre. These Committees consist of the Chairman or a Member of the U.P.S.C. and certain officers representing the State Government. These Committees are required to meet at intervals ordinarily not exceeding one year. State Commissions are not associated with any work connected with these Committees.

All posts filled through promotion may broadly be divided into two categories: (i) "selection posts", promotions to which are made on the basis of merit-cum-seniority; and (ii) "non-selection posts" promotions to which are made on the basis of "seniority subject to the rejection of the unfit". A distinction may be drawn between these. In the case of the non-selection posts, a decision has to be taken as regards the suitability of each individual officer and there is no need for a comparative evaluation of their respective merits; the officer has to attain a minimum standard of efficiency in order to be promoted to the higher grade. Before 1959 such promotions were not necessarily decided by the D.P.C. Normally, the head of the office or the officer concerned with promotions was to deal with promotion to non-selection posts. Since that year, promotions even to these posts, have been entrusted to the D.P.C.

In the case of selection posts, before promotions are considered, the field of selection is defined through the Recruitment Rules of the posts concerned. This may be done by prescribing a minimum period of experience in the lower grade or grades. For example, for promotions to the I.A.S., the I.A.S. (Promotion) Regulations restrict consideration of State Civil Service officers to those who have at least 8 years' service in specified posts of the State Service concerned. Sometimes the field of choice is limited by the consideration that the promotees should have a sufficient number of years of services left to plan their work and be of effective service to Government in discharging the responsibilities of the post.<sup>8</sup>

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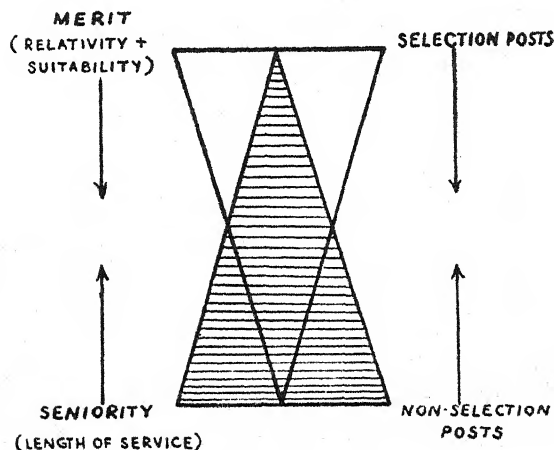
<sup>8</sup> For example there was a practice from 1864 to 1955 in regard to the selection of the Inspector General of Forests that senior forest officers who had at least, three years or more left to go, alone were eligible for consideration for selection to the post. For a



Thus recruitment to selection posts through promotion is of the closed competitive type being confined to a more restricted group of eligibles.

DIAGRAM - 2

PRINCIPLES OF PROMOTION



After having the field of choice defined, the following criteria are normally followed in promotions to "selection posts": Promotion should be made not merely because of what he has done in the past, but of what it is hoped he will do in the future; and in choosing a man for promotion, one must look at the good that the organisation will get out of the fact that this man rather than that is moved up in the team.<sup>9</sup>

The actual selection on merit is made by one or other of

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detailed study of this precedent see Muttalib's Case Study on "Grant of Extension to the Inspector-General of Forests" *op. cit.*

<sup>9</sup> Government of Bengal, Report of the Bengal Administration Enquiry 1944-45. para 254.

the following processes or by a combination of two or more of them :

- (i) the periodical assessment of character and performance recorded in the form of confidential reports;
- (ii) the impressions gathered in an interview to test personality ; and
- (iii) a written or practical test designed to judge ability to perform the duties allotted.<sup>10</sup>

The D.P.C. does not normally interview the officers. Appointments are made strictly in order of the promotion panel to vacancies in the promotion quota prescribed in the Recruitment Rules even for short-term vacancies. Normally, the D.P.C. meets annually and reviews the panel. Officers in the panel not promoted to regular vacancies, are considered along with others, when the review is undertaken. But seniority also figures in the arrangement of names of the selected candidates in order of preference. A procedure frequently adopted in arranging the names of those selected with due regard to seniority is as follows : Less senior persons of outstanding merit are placed above their seniors as a deliberate act of selection and recognition of superior merit. Another variation of this method is to group the persons selected into broad categories of merit, e.g., "Outstanding", "Very Good", "Good", "Fair", etc. All persons in one group are placed above all others in the next lower group, but within each group, seniority prevails.<sup>11</sup>

## 2. LIMITATIONS OF THE COMMISSION'S ASSOCIATION

To sum up, promotions with which the Commission is associated in any form, tend to be based on certain principles. The Commission has evinced much less interest in promotions where there is not much difference in the responsibilities of the posts in the lower grade and the higher grade, e.g., promotions within a class. But in promotions from one class to another such as from Class II to Class I involving a greater amount of responsibility, selection being mainly on merit, the Commission

<sup>10</sup> Cf. Dutt, R.C., *op. cit.*, pp. 206 and 210.

<sup>11</sup> *Ibid.*, 210-211.

is invited to send its representative to sit on the D.P.C. Further, according to Government's interpretation of Article 320 (3), when it says that the U.P.S.C. shall be consulted "in all promotions and transfers from one service to another", the Commission should send its representative to the D.P.C. where promotions are from one service to another or from one class to another. As indicated by the Commission in its Annual Reports, there has so far been only one case (out of several hundred cases relating to "promotions", referred to it every year) in which the Commission's advice was not accepted.<sup>12</sup> Indeed, the principles applied to promotions at the Centre, seem to serve two basic objects of sound personnel administration—efficiency of the services and the morale of the personnel. The Commission's association with promotions is expected to promote the independent consideration of the claims of candidates and to assist in the arrangement of candidates in order of preference.

As Hayes pointed out in his Report on the Public Service Commissions of British Commonwealth Countries: "The Commission is in a difficult position over promotions. Since there is neither time nor staff to interview likely candidates, decisions have to be made on their records and confidential reports. It is notorious in all countries that confidential reports, however sincerely made, vary widely in value. The Commission's duty is not so much to select the best officer for promotion as to protect Civil Servants against injustice, and the reports on candidates are often the only evidence it has."

This system applies to the All-India Services also where promotion is made by selection. In these cases the Selection Committee, presided by a Member of the Commission sometimes, interviews eligible State Service candidates where it considers necessary. However, by and large, as Hayes concluded, in the absence of strong and responsible staff associations, the civil servants look to the Commission as the only safeguard which they have against injustice, real or imaginary.

Finally, the promotional area should be restricted only to the extent dictated by the good of the service as a whole, for

<sup>12</sup> First Report of the U.P.S.C., *op. cit.*, paras 36-38.

it must be recognised that "the wider the area of selection, the sharper the competition and the better the ultimate choice". This involves the question of framing the Recruitment Rules of the services in consultation with the Commission. While several services now have their Recruitment Rules, a large number of services and isolated posts are still left without them, resulting in anomalies and delay.

Further, there are two aspects of the existing promotion system which deserve close examination. These are : (i) maintenance of Confidential Records ; and (ii) the right of employees to go in for an appeal to an outside service agency where they are superseded by juniors. The Commission's close association with these service matters may meet the general complaint about them.

#### (B) 1. TRANSFER, DEPUTATION AND RE-EMPLOYMENT

There are posts which have to be filled by persons with previous knowledge and experience of the working of Government Departments and in such cases candidates can be found only from State Governments and other similar agencies. Where candidates with similar knowledge and experience are not available, the retiring officers are to be retained either by extension or by re-employment. Further, Government may also wish to give experience in a particular post by rotation, to various officers either in the same Department or to officers of other organisations or States so that the experience gained by them could be utilised when they are sent back to their parent organisation or state. Hence the association of the Commission with a view either to making the best selection out of the proposed candidates or to protecting the interests of the serving civil servants.

Whereas a promotion usually implies an upward movement of the employee commensurate with increased responsibility, transfer involves horizontal movement of the employee to a position of the same class in another organisation, involving a change from one jurisdiction to another. The Commission is associated with transfers from one service to another and not within a particular service. In other words, it is consulted in

transfers from State Service to the Central Service or from non-governmental Service to the Central Service involving not only change in employer but also his compensation. In such cases of transfer officers are generally obtained on deputation for fixed periods—say 3 to 5 years at the end of which either their tenure is extended or they are sent back to their parent organisation. In all such transfers, various authorities concerned are addressed by the Commission and a selection is normally made from among the officers recommended, on the basis of their qualifications, experience and records. Normally, the Commission decides all such cases without interviewing the candidates.

Recruitment by transfer or deputation is made in pursuance of a proviso in Article 320 (3) of the Constitution which stipulates that the Commission shall be consulted on the principles to be followed in transfers from one service to another and on the suitability of candidates for such transfers. The President may, however, exclude transfers of officers of any service through the U.P.S.C. (Exemption from Consultation) Regulations. For instance Regulation (3) has excluded transfers of officers within Class I<sup>13</sup> and Class II Services and to posts included in an All-India Service.

The question of retention of officers who are due for retirement, may assume the form either of extension of service or re-employment of the officer after retirement. A distinction between "extension of service" and "re-employment" may be made. Extension implies postponement of superannuation of the officer in question, while re-employment is tantamount to his fresh employment after retirement. For determining the suitability of the officer for re-employment, the Commission is consulted. When the officer is granted extension after the date of superannuation, he continues to be a member of the service enjoying almost all the benefits to which any other member is entitled. But when he is re-employed, either he continues in the same post with reduced service benefits or he is employed as Officer-on-Special-Duty. From 1946 to 1954 the Commission was consulted under an Executive Order issued in 1946, in cases where Government

<sup>13</sup> Cf. U.P.S.C., (Exemption from Consultation) Regulations, *op. cit.*

proposed to grant an extension of service, except when the period of extension was not to exceed six months.<sup>14</sup> Since May 1959, assessment of suitability of individual officers for retention in service beyond the age of superannuation is assigned to the Departmental Promotion Committee concerned.<sup>15</sup> The Commission is consulted in regard to re-employment of officers after superannuation for periods over one year. Re-employment up to a year can be made by the appointing authorities, provided it is necessary in the public interest to make the appointment immediately and a reference to the Commission is likely to cause undue delay.<sup>16</sup> Where the appointment is for over a year, the Commission has to be addressed well in advance, stating the reasons for such re-employment. The Commission tenders its advice on such cases after examining the availability of experienced personnel within the Department as well as outside.

## 2. RECRUITMENT OF ARMY OFFICERS

In accordance with a decision of the Government, army officers who usually retire at an age much below the age of retirement for civilian officers, should be rehabilitated and appointed temporarily to hold posts under the various Ministries or State Governments. Accordingly, the Commission decided that the Army Liaison Organisation under the Ministry of Defence should be consulted whenever a requisition is received from a Ministry to see whether candidates are available from this source, before the posts are advertised. The Army Liaison Organisation suggests the names of suitable officers to the administrative Ministry concerned for specific posts. These are forwarded by the Ministry to the Commission which, after due consideration of the dossiers of the retired army officers, recommends them often without interview. In

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<sup>14</sup> For the circumstances that led to the abolition of the order under which the Commission's concurrence was required, see Muttalib's Case Study, *op. cit.*

<sup>15</sup> Eleventh Report of the U.P.S.C., 1960-61, *op. cit.*, p. 14, para 25.

<sup>16</sup> Vide Regulation 4 of the U.P.S.C. (Exemption from Consultation) Regulations, 1958.

doubtful cases, however, the Commission may call such retired officers for interview to assess their suitability.

In conclusion, it may be observed that no service matter is as important and fraught with as many difficulties as the promotion and selection from lower services for the higher positions. The difficulties are augmented by heart-burning, among the serving staff, caused by the fact that all cannot expect eventual promotion to the few top rungs of the ladder. Hence the importance of those who constitute the D.P.Cs. and of the promotion principles. Indeed, no system, however neat, can work successfully without the goodwill and best intentions of those who actually run the show. Therefore, the whole philosophy of the merit system on which staffing from within should be based must permeate the thinking and the belief of every appointing officer in the service. The Commission's association with staffing from within has certain unavoidable limitations. The efficacy of its association suffers inasmuch as it cannot claim acquaintance with the candidates under consideration for promotion, beyond what is communicated to it. Therefore, its role in recruitment from within cannot be as effective and positive as in that from outside.

## CHAPTER VIII

### DISCIPLINE AND OTHER SERVICE MATTERS

At its very inception, it was intended that the Public Service Commission in India should be more than a recruiting agency. The Lee Commission, on the basis of whose proposals the Commission was ultimately instituted, assigned to the Commission quasi-judicial functions connected with the disciplinary control and protection of the services.<sup>1</sup> The purpose of this chapter is to lay down a few points of definition, give a brief assessment of practices, and outline a few precautions and principles in regard to matters other than recruitment. These service matters have been discussed in two separate sections, the first section being of a judicial character, the second, in the nature of a *post mortem* of certain departmental activities relating to appointments in the light of prescribed rules.

#### (A) 1. DISCIPLINE

The Public Service Commission (Functions) Rules, 1926 set forth for the first time, in pursuance of the recommendations of the Lee Commission, the types of disciplinary cases to be disposed of in consultation with the Commission. The Commission was to tender advice before (a) passing an original order inflicting specified punishment on officers; (b) consideration of any appeal presented to the Governor-General or to the Secretary of State against any order imposing a specified penalty on officers; and (c) passing any order on a memorial submitted to the Governor-General. The Government of India Act, 1935 elaborated specific measures to give effect to these provisions.<sup>2</sup>

<sup>1</sup> The Lee Commission, *op. cit.*, see the Chapter on the Public Service Commission.

<sup>2</sup> Section 266 (3) (c). In fact, under the Government of India Act, 1919, the Commission was to receive powers of a mandatory nature in regard



Indeed, the idea of appeal in disciplinary cases is so deeply rooted in the service traditions of India that it would be difficult to upset it. The Government of India in its Memorandum submitted to the Simon Commission suggested<sup>3</sup>: "In disciplinary cases . . . the Public Service Commission has been established in a position of great authority. It is obligatory for the Government of India to take its advice before passing orders on any statutory appeal from an officer in a disciplinary case, and, the convention has been established that the recommendations of the Commission should be accepted, save in exceptional circumstances. In effect, therefore, the Public Service Commission has been set up as the appellate authority in disciplinary cases against the orders of the Government or authority under which the officer is serving." The traditions built up within the first two years of the Public Service Commission's existence, have served since then, as a sound basis for the development of its relationship with the Government of India in matters of discipline.

There are three schools of thought in regard to disciplinary proceedings in the public service. There are those—most of the larger federations and unions of Central Government employees—who hold that the employees enjoy inadequate protection; then, there are those—including organisations of non-gazetted employees—who are satisfied with the existing arrangement; and, a third school of thought—represented among others by certain professional and academic bodies—considers that employees are in a far more secure position than their counterpart for instance in U.S.A., U.K., or Australia.<sup>4</sup> This view was also supported by the Santhanam Committee.<sup>5</sup> Indeed, the employees, specially those at the upper and intermediary levels, have the right to be informed of the charges and evidence, to file a written statement (at

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to Service matters, although the area of jurisdiction was to be defined by the Secretary of State for India.

<sup>3</sup> Memoranda submitted to the Indian Statutory Commission by the Government of India, Vol. V, Calcutta; Government of India, Central Publication Branch, 1930, p. 1326.

<sup>4</sup> The Second Pay Commission, *op. cit.*, Chapter LI.

<sup>5</sup> Report of the Committee on Prevention of Corruption, Government of India, March 1964, p. 35.

their convenience), to be heard once against the charges and again to represent against the proposed action, to have their case considered by the Commission, to appeal or to submit a memorial and later to move the courts if they are aggrieved by an order.

By and large, the U.P.S.C. like its predecessors, has no reason to complain of any intrusion on its functions in respect of discipline. Of the several hundred disciplinary cases referred to the Commission between January 1950 and March 1961, there have been only four cases in which the Commission's advice was not accepted.<sup>6</sup> In two of the four cases the Government concurred generally with the advice of the Commission but declined to set aside the orders of the State Governments which were primarily concerned.

*(1) Commission's Area of Concern*

Under the Constitution of India the President is required to consult the U.P.S.C. "on all disciplinary matters affecting a person serving under the Government of India . . . in a civil capacity, including memorials or petitions relating to such matters . . ." The President is, however, empowered to make regulations in regard to the particular types of cases in which it shall not be necessary for the Commission to be consulted.<sup>7</sup> The U.P.S.C. (Exemption from Consultation) Regulations, 1958 defined the boundaries of the Commission's jurisdiction in this respect. The disciplinary actions in which it is consulted by the President before passing orders, may broadly be catalogued into four types :

- (a) an original order imposing any of the specified penalties;
- (b) an appeal against an order by a subordinate authority, inflicting any of the specified penalties;
- (c) an order issued after consideration of any petition or memorial submitted to him, imposing a penalty; and
- (d) an order based on his powers of review which modifies an order in which none of the specified penalties has been imposed.

The Regulations specify that the Commission must be

<sup>6</sup> *Vide* Appendix 6.

<sup>7</sup> Article 320 (3) (c).

consulted when the following penalties are to be imposed:

- (a) Censure;
- (b) Withholding of increments or promotion;
- (c) Recovery from pay of the whole or part of any pecuniary loss caused to the Government by negligence or breach of orders;
- (d) Reduction to a lower service, grade or post, or to a lower time-scale, or to a lower stage in a time-scale;
- (e) Compulsory retirement;
- (f) Removal from service; and
- (g) Dismissal from service.<sup>8</sup>

The other disciplinary matters excluded from the purview of the Commission (such as the withholding of increments because of failure to pass a departmental examination, stoppage of a Government servant at the efficiency bar, promotion or reversion to a lower service, grade or post of a Government servant officiating in a higher service), have not been regarded by the Central Civil Services (Classification, Control and Appeal) Rules, 1957 as penalties.<sup>9</sup> In other words, the Commission is not consulted in the excluded disciplinary matters before an original order, an order on an appeal, or an order in connection with any petition or memorial is issued by the President.

However, the Regulations have excluded the following for reasons of defence and national security:

- (a) any disciplinary matters affecting a person who belongs to a Defence Service (Civilian);
- (b) an order by the President for dismissal, removal or reduction in rank, when he is satisfied that such action is necessary in the interests of the security of the State; and

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<sup>8</sup> "Removal from service" does not disqualify a Government servant from future employment; but "dismissal from service" ordinarily disqualifies for future employment. Further, "suspension" is not regarded under the present Regulations as a type of real punishment as the previous Regulations envisaged. Therefore, it is removed from the purview of the U.P.S.C.

<sup>9</sup> Chaudhri's Compilation of Civil Service Regulations, Vol. II, S.L.S.

- (c) in any case where the President proposes to make an order imposing penalties on members of the Central Civil Services and the Railway Services with a view to safeguarding national security.<sup>10</sup>

The case of the exemption of the above classes of the civil service from consultation with the Commission stands on a special footing. But the effect of exclusions from the Commission's purview under Rule 5 of the U.P.S.C. (Exemption from Consultation) Regulations is to limit consultation to cases concerning mostly Class I and Class II employees who constitute less than 2 per cent of the Central Government employees. But it must be recognised that the extension of the Commission's purview to the Class III and Class IV employees in regard to all kinds of penalties will entail considerable strengthening of the Commission. Nevertheless it is most desirable to associate the Commission with the imposition of major penalties on these classes. As it is, appeals to the Central Government are required to be dealt with in consultation with the Commission and, therefore, the practical question is only in regard to memorials and petitions. As the Second Pay Commission observed, the additional expenditure involved would be a small price to pay for the satisfaction that it would give to the employees.<sup>11</sup>

## (2) *Authority to Impose Penalty*

(a) *The All-India Service* : The penalty of dismissal, removal or compulsory retirement may not be imposed on a member of an All-India Service except by an order of the Central Government. Where a member of the Service commits an act which renders him liable to any lesser penalty, the Government under whom he is serving, will impose it. When the Government administering punishment, is other than the one on whose cadre the civil service is borne, the latter Government is consulted before any penalty is imposed. Further,

<sup>10</sup> *Vide* Rule (3) of the Central Civil Service (Safeguarding of National Security) Rules 1953 or Rule 3 of the Railway Services (Safeguarding of National Security) Rules 1954, as amended by the Railway Services (Safeguarding of National Security) Amendment Rules, 1960.

<sup>11</sup> The Second Pay Commission, *op. cit.*, Chapter LI, para 13.

when the member is serving the Central Government and there is a difference of opinion between the two Governments, the decision of the Central Government, passed in consultation with the Commission, is final. The following chart indicates the authorities competent to impose the penalties signified, always in consultation with the Commission :<sup>12</sup>

Table No. 7  
Authorities for Imposing Penalties for All-India Services

<i>Authority to impose penalty</i>	<i>Specified penalties in regard to which the Commission is consulted</i>	<i>Whether final or subject to the approval of any authorities</i>
1. The Central Government.	Dismissal, removal or compulsory retirement.	Final.
2. The Central Government when the member of the service is serving under it; the cadre on which he is borne, is of a State Government.	Censure, withholding of increments or promotions, recovering from pay of the whole or part of any pecuniary loss caused to the Government by negligence or breach of orders and reduction to a lower service grade or post or to a lower time-scale or to a lower status in the time-scale.	Consultation with the State Government on whose cadre the member is borne is necessary.
3. The State Government under whom he is serving but the cadre is of another State.	—do—	—do—
4. The Central Government and State Government or two State Governments and he is of the cadre of one of them; but there is difference of opinion.	—do—	Central Government verdict shall be final.

<sup>12</sup> Handbook of Rules and Regulations for the All-India Services, *op. cit.*, All-India Services (Discipline and Appeal) Rules, 1955, para 4.

(b) *The Central Services*: The President (or any other authority empowered in this behalf) by his general or special order may impose any of the aforesaid penalties on a member of any of the Central Civil Services, after consultation with the Commission<sup>13</sup> in the specified cases.

In every case in which it is necessary to consult the Commission, the record of the inquiry, together with copies of allegations and the statement of charges framed against the Government servant and the representation made by him in response to such notice, if any, is forwarded by the disciplinary authority to the Commission.<sup>14</sup> On receiving advice from the Commission, the disciplinary authority considers the facts and passes appropriate orders on the case.<sup>15</sup> Along with the orders the charged employee is presented with the following: (i) a copy of the report of the inquiring authority, and, where the disciplinary authority is other than the inquiring authority, a statement of its findings together with brief reasons for disagreement, if any, with the findings of the inquiring authority; and (ii) a copy of the advice, if any, given by the Commission, and, if the disciplinary authority has not accepted the advice of the Commission, a brief statement of the reasons for such non-acceptance.<sup>16</sup> The record of proceedings in such cases includes:

- (i) a copy of the intimation to the Government servant of the proposed action against him;
- (ii) a copy of the statement of allegations communicated to him;
- (iii) his representation, if any;
- (iv) the advice of the Commission; and
- (v) the orders on the case together with the reasons therefor.<sup>17</sup>

Where a penalty is imposed on a Government servant because of his conviction on a criminal charge, or where the prescribed procedure is not reasonably practicable for reasons

<sup>13</sup> The Central Civil Services (Classification, Control and Appeal) Rules, 1957, Rule 14.

<sup>14</sup> See Appendix 9 for particulars sent to the Commission.

<sup>15</sup> *Ibid.*, sub-rule 10 of Rule 15. For particulars submitted to the Commission for advice see Appendix No. 9.

<sup>16</sup> *Ibid.*, sub-rule (12) of Rule 15.

<sup>17</sup> *Ibid.*, sub-rule (2) of Rule 16.

to be recorded in writing or in the interest of the security of the State, the disciplinary authority may pass orders thereon, in consultation with the Commission, without observing these formalities.

No appeal lies against any order made by the President. But a Government servant may, within a prescribed period, appeal to the appellate authority against an order imposing upon him any of the specified penalties. The appellate authority after due consideration and, after consultation with the Commission, may pass appropriate orders.

The President on his own motion or otherwise, after calling for the records of the case, may review any order which is made or is appealable after consultation with the Commission, and pass such orders as are deemed fit, as if the Government servant had preferred an appeal against such order.<sup>18</sup> But where the original order was passed by the Central Government or the State Government concerned, as the case may be, after consultation with the Commission, it may not be revised except after consultation with the Commission.<sup>19</sup>

Members of the All-India Services and the Central Services may submit "petitions" (including memorial representations, letters, or applications to the President) against the orders of the Central Government. Under a proviso of sub-clause 3 of Article 320, the President is required to consult the Commission before passing an order overruling or modifying an order imposing any of the specified penalties made by himself or by a subordinate authority.<sup>20</sup>

The Commission's functions in regard to disciplinary matters may be "regarded with some suspicion as facilitating the retention in the service of the guilty or incompetent". Therefore, the Commission should be careful not to encourage that suspicion.

<sup>18</sup> The Central Civil Services (Classification, Control and Appeal) Rule 32, *op. cit.*

<sup>19</sup> All-India Services (Discipline and Appeal) Rules, Rule 19, *op. cit.*

<sup>20</sup> Before the Government of India Act, 1935 was given effect to only such memorials, as raised important or doubtful points of principle, were referred to the Commission. Others in which the answer appeared clear, were disposed of without reference to the Commission (vide Government of India Memoranda, submitted to the Statutory Commission, *op. cit.*, para 6, p. 1326).

The situation can be avoided if the Commission's role, when a Department proposes to inflict punishment on an officer, is confined to ascertaining :

- (i) that the officer had an adequate opportunity of defending himself ;
- (ii) that the decision of the Department was uncoloured by bias ;
- (iii) that the finding of the Department was one at which a reasonable man could arrive ; and
- (iv) that the punishment was proportionate to the offence and not disproportionate to punishments inflicted on other officers for similar offences.<sup>21</sup>

In short, the Commission should see that an official charged with an offence in the course of his duties is dealt with according to a special disciplinary procedure with a view to providing him with guarantee against Government's arbitrary action.

A serious limitation of the Commission's association is that it does not conduct a hearing and has nothing but papers before it. In view of this weakness of the Commission, Sir Ross Barker suggested that in certain circumstances the Commission should have the power to depute a Member to hold an inquiry.<sup>22</sup> This suggestion was accepted, though in an indirect form, in June 1946. The orders issued that year stated that the "Commission shall have the right to call for any information which may be required by the Commission in the discharge of its functions". For a while thereafter, the Commission sometimes interrogated the accused person and called witnesses. But now it only studies the papers transmitted by the Department concerned. When the Commission claims special power it should possess special knowledge that may enable it to exercise that power reasonably and thoroughly.<sup>23</sup>

The Commission's duties in disciplinary cases are, however, very different from those of a court of law. It should not adopt a rigid legal approach, especially in regard to irregularities on the part of the Departments. It is mainly concerned to see whether in its opinion the disciplinary action proposed

<sup>21</sup> Cf. Barker's Memorandum, *op. cit.*, para 16.

<sup>22</sup> *Ibid.*

<sup>23</sup> Cf. *ibid.*



is justified and whether, apart from technicalities of procedure, the offender's case has received fair consideration. While reporting its opinion, it should not hesitate to report the irregularities, if any, that have occurred.<sup>24</sup>

A general complaint about the procedure of disciplinary proceedings is that it drags on for years. In some cases when the orders passed are declared void by the Supreme Court, the Government has to pay arrears of large sums. The Santhanam Committee's suggestion to limit the power of the Supreme Court under Article 32 of the Constitution in regard to matters relating to maintenance of integrity, will improve the situation in certain respects. The suggestion which involves constitutional amendment, will enhance the position of the Executive.<sup>25</sup> In the interest of fair justice of the aggrieved employees, the Commission's wing of disciplinary proceedings will have to be strengthened. For instance, the Commission should always have at least, one of its Members drawn from distinguished jurists.

## 2. CLAIMS FOR COMPENSATION

The fact that the Commission's functions are judicial in character, is not only evident from its share in disciplinary matters but also from its advisory functions relating to (i) "any claim by or in respect of a person who is serving or has served under the Government of India or the Government of a State or under the Crown in India or under the Government of an Indian State, in a civil capacity, that any costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be paid out of the Consolidated Fund of India, or as the case may be, out of the Consolidated Fund of the State"; and (ii) "any claim for the award of a pension in respect of injuries sustained by a person while serving under the Government of India or the Government of a State or under the Crown in India or under the Government of an

<sup>24</sup> Cf. *ibid.*

<sup>25</sup> Report of the Committee on Prevention of Corruption, *op. cit.*, pages 35-36.

Indian State, in a civil capacity, and any question as to the amount of any such award".<sup>26</sup>

(a) *Re-imbursement of legal expenses* : The provision for re-imbursement of legal expenses was no innovation of the Constitution of India. It was only an adaptation of a provision to that effect in Section 266 (3) of the Government of India Act, 1935. The practice of Government in re-imbursing expenses incurred by their employees in defending legal proceedings arising out of something done or purported to have been done in the execution of their duty may be traced back to the Government of India Despatch No. 101 of 1918, dated May 17, 1918. In that Despatch there is a reference to the practice of Government contributing towards the cost of defence, provided the officer concerned is acquitted and his character cleared. It is interesting to observe, however, that whereas Section 96 (c) of the Government of India Act, 1919, contemplated the establishment of a Public Service Commission, there was no specific indication of the Commission being required to advise on claims for legal re-imbursement. The Report of the Lee Commission, 1924 contains a reference to re-imbursement of legal expenses, but this was to be in the event of a breach of the legal covenant between the officer and the authority which appointed him.<sup>27</sup> The aggrieved officer, the Lee Commission recommended, should in the specified circumstances be indemnified, for legal expenses in prosecuting his claim in the civil courts. The aggrieved officer was to have the right to apply to the Public Service Commission for a certificate that his case was, *prima facie*, fit one for adjudication by a civil court. If the officer's claim was subsequently sustained by the courts but not otherwise, the Lee Commission proposed that the whole cost of the legal proceedings should be defrayed by the Government concerned. However, the Lee Commission did not make any reference to the procedure which should be adopted in regard to the legal expenses met by an officer in defending himself in respect of acts done in the execution of his duty. Nor was the Public Service Commission (which came into existence in 1926)

<sup>26</sup> Article 320 (3) (d) & (c).

<sup>27</sup> The Report of the Lee Commission, *op. cit.*, paras 28 & 85.

required to advise on claims for legal imbursement.

The Government of India Act, 1935, provided for the first time, that such cases be referred to the Federal Public Service Commission. Even then, it was some years before Independence that the Government became active in the implementation of the constitutional requirement of consultation with the Commission and claims for re-imbursement started being referred to the Commission only from 1945.

Payment in this respect, under the Constitution of India, cannot be claimed as a matter of right. Awards of reasonable re-imbursement must necessarily be of a discretionary nature depending on the facts of the case as brought out in the course of the trial. An interesting feature of the system of re-imbursement is that it is the Government which prosecutes and again it is the Government which will be called upon to re-imburse in respect of the same prosecution.

The rules governing legal and financial assistance to Government servants involved in legal proceedings, were issued in May 1959. These envisage the basic considerations that are kept in view in deciding such claims. Opinions may differ as to what constitutes an act "done or purporting to be done" in the execution of an officer's duty. The language connotes not acts done in the execution of duty, but acts purporting to have been done.

Another important consideration to be borne in mind in this connection, is the fact that the claim must be in respect of legal proceedings where the Government servant was required to defend his conduct before a court of law. In other words, claims for re-imbursement if the Government servant himself went to a court to clear his position or conduct, are not covered by this provision. It is also interesting to observe that there might conceivably be cases where a Government servant, though convicted (say, on a charge of contempt of court) could well claim and be paid re-imbursement for his legal expenses. And re-imbursement of legal expenses does not necessarily follow an acquittal as a matter of course, but depends on the facts of each case. The Commission must be consulted, before any payment of costs is made by Government. As it is evident from the Annual Reports of the Commission,

its advice in this connection has been invariably followed.

(b) *Extraordinary Pensions* : It was Section 266 (3)(c) of the Government of India Act, 1935, which for the first time, laid down that the Commission should be consulted on all claims for the award of injury pensions and on the amounts of such awards. Cases for award of extraordinary pension to Government servants who are injured or to the families of Government servants who die of such injuries, have been referred to the Commission since March 1944, under an order issued in that year.

This provision was incorporated in Article 320 (3) (c) of the Constitution of India. Grants of extraordinary pensions are regulated by rules issued from time to time.<sup>28</sup>

Under an order of the Government of India, the provisions of the Central Civil Services (Extraordinary Pension) Rules are applicable to the All-India Services also.

Extraordinary pensions are granted to Government servants who are injured, or to the families of Government servants who die of such injuries, or are killed in the course of their duties except in cases where the injury or death is caused by the Government servant's own negligence. Extraordinary pension or gratuity is applicable to all civilian employees of Government, whether permanent, temporary, or whether paid on monthly or daily rates, except that those governed by the Workmen's Compensation Act are ordinarily excluded from the benefits admissible under the Rules.

The extraordinary pension is in addition to the ordinary pension to which the Government officer may otherwise be

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- <sup>28</sup> (i) Chapter XXXVIII of the Central Services Regulations, which is applicable to pre-1937 entrants;
- (ii) Superior Civil Services (Extraordinary Pension) Rules, 1936, which are applicable to officers appointed by the Secretary of State;
- (iii) Central Civil Services (Extraordinary Pension) Rules, 1937, which are applicable to those who entered service under the Central Government on or after 1st April, 1937;
- (iv) Chapter XXVII of India Railway Establishment Code Volume II which is applicable to pre-1937 Railway Employees ; and
- (v) Railway Services (Extraordinary Pension) Rules which are applicable to Railway Employees.

entitled and awards under Extraordinary Pension Rules do not preclude the officer from being considered for the retirement benefits admissible to him under the Rules of his service. Awards under the Extraordinary Pension Rules may be in the form of a gratuity or a pension or both. In case of injury, the Government servant himself would be entitled to extraordinary gratuity or pension, as the case may be, and in case of death, the family pension is ordinarily payable to the widow or minor children, failing which to other relations in certain circumstances.

The scale of payment varies according to the pay, status and rank of the Government servant concerned. In the case of injury pension, the amount would depend on the extent of injury. Under the Central Civil Services (Extraordinary Pension) Rules, the maximum amount of award is limited to half of the pay of the officer.

The most important criterion for the award of extraordinary pension, is whether injury or death was met in the course of performance of duty or as a consequence thereof. "Risk of Office" and "Special Risk of Office" have been defined in the Rules and it has been made clear that "nothing shall be deemed to be a risk of office which is a risk common to human existence in modern conditions in India, unless such risk is definitely enhanced in kind or degree by the nature, conditions, obligations or incidents of Government service".

Where claims for extraordinary awards are not strictly governed by the Rules applicable, there is a convention according to which the Commission may in deserving cases recommend grants of extraordinary pensions or awards on an *ex gratia* basis.

#### (B) 1. TEMPORARY APPOINTMENTS

"Temporary Appointments" is one of the few subjects which has been a source of friction between the Ministries and the Commission. The subject involves two conflicting ideas. In the first place, temporary appointments are undoubtedly necessary at times, without involving the long process of consultation with the Commission. Secondly, the

temporary appointment can be effective in circumventing the merit system. The limitation upon the length of time for which such appointments may be made is crucial. As O.G. Stahl suggests, in the absence of such a restriction, these appointments might automatically become permanent and thus undermine the merit system.<sup>29</sup>

Realizing their importance, it was specified through Rule 4(b) of the Federal Public Service Commission (Consultation by the Governor-General) Regulations, 1937, that the Commission need not be consulted in the case of temporary appointment: (a) if the post was not likely to last for more than one year; or (b) in the case of an appointment for a period of more than one year but less than three years, if the Commission advised that the appointment might be made without consulting it.

Under the amended Regulations, June 1950, it was pointed out that the post might also be permanent, although the appointee might be temporary; and, thereby, the emphasis shifted from post to "post-holder". In other words, even permanent posts might be exempted from the purview of the Commission when they were to be held by persons not likely to hold them for more than one year.

Under Rule 4 of the U.P.S.C. (Exemption from Consultation) Regulations, 1958, it is provided that it will not be necessary to consult the Commission in regard to the selection for temporary or officiating appointment to a post, if the person appointed is not likely to hold the post for a period of more than one year; and if it is necessary in the public interest to make the appointment immediately and a reference to the Commission would cause undue delay. It is further provided, however, that such an appointment will have to be reported to the Commission as soon as it is made; if the appointment continues beyond a period of six months a fresh estimate as to the period for which the person appointed is likely to hold the post, will have to be made and reported to the Commission; and if such estimate indicates that the person appointed is likely to hold the post for a period of more than one year from the date of appointment, the Commission will

<sup>29</sup> Stahl, O.G., *op. cit.*, pp. 138-139.

immediately have to be consulted in regard to the filling of the post.

Thus the operating agencies have not been permitted to make temporary and officiating appointments, save under well-guarded conditions. Unlike the former rules, the existing U.P.S.C. (Exemption from Consultation) Regulations have provided precautions against the misuse of this power, both before and after such appointments. As the Regulations lay down before such appointments two basic conditions should exist: first, the appointment is not likely to be for more than one year; and secondly, it is necessary in the public interest to make the appointment immediately and a reference to the Commission will cause undue delay. In order to keep "the power" (although already exercised) in check, the Regulations have provided for a further device. In the first place, all such appointments are reported to the Commission as soon as they are made—a requirement not known under the previous Regulations. Then, where the appointment continues beyond a period of six months, the Ministries are required to make a fresh estimate as to the period for which the person appointed is likely to hold the post. The Commission should be informed accordingly. If according to such estimate, the appointment is likely to continue for more than one year from the date of appointment, steps should be taken for the filling of the post in consultation with the Commission.

In addition, there exists a practice instituted in July 1946, as a measure to check violations of the statutory necessity for consultation with the Federal Public Service Commission in making appointments and promotions. Under this practice, the various Ministries and Departments of the Government of India should furnish the Commission with monthly returns of all appointments made by them without reference to the Commission.

In Andhra Pradesh an interesting experiment has been introduced to minimize violations of statutory requirement of consultation with the Commission in regard to temporary appointments. Under the instructions of the State Government, appointing authorities are required to enclose a certificate with the pay-bill of an officer after he has held a post for a

period of three months, that the Commission has been consulted in his appointment. The Accountant-General is expected to report the cases where such consultation has not been resorted to, although the passing of the bills is not withheld on that ground. The procedure is said to have helped to reduce the number of cases involving breach of the requirement of consultation in the making of appointments.

However, it is not the mechanical checks which ultimately count but the spirit behind them. The Ministries' desire to indulge in temporary appointments may be reduced to a minimum if there is proper understanding of the object of the provisions of these Regulations. The position may improve with better methods of forecasting and anticipating the probable requirements of the service well in advance on the basis of past experience.

## 2. REGULARISATION OF IRREGULAR APPOINTMENTS

The precautionary measures mentioned above, often relate to the differences of the Commission with the Ministries in the regularisation of irregular appointments. As a matter of fact, the reasons for such appointments were, by and large, inherited by the Government of India from its predecessor. What was validated because of abnormal conditions during and immediately after the Second World War, has continued unabated on the plea that the Government has embarked on efforts on a war footing to improve the economic conditions of the people through plan projects.

Irregular appointments which have been referred to the Commission for regularisation may be described under two heads :

- (i) those made initially without consultation with the Commission, which was not necessary when the appointments were made but became necessary subsequently; and
- (ii) those made without consultation with the Commission, although such consultation was necessary.

It was in March 1949, that the then Commission asked the Ministries to address the Commission for regularisation of



the aforesaid types of appointments with the confidential records of the officers and the full details of their qualifications, experience, etc., required for the posts in question.

The following are a few of the types which belong to the first category of irregular appointments :

- (i) Temporary appointments made due to abnormal conditions obtaining during and immediately after the Second World War without reference to the Commission under the now defunct Rule 4 (c) of the Federal Public Service Commission (Consultation by the Governor-General) Regulations.
- (ii) Posts up-graded from Class III to Class II, the original temporary appointments to Class III did not require a reference to the Commission but with up-grading a reference to the Commission became necessary.
- (iii) Temporary appointments made by agencies like company-owned Railways, etc., which were subsequently taken over by Government. It was necessary to consult the Commission before persons employed in such posts were confirmed in equivalent posts in Central Services Class I or Class II.

The second category of irregular appointments is that in which posts were filled by methods other than promotion or transfer of permanent Government servants, i.e., by selection through the Commission after open advertisement and interview. Such persons selected without reference to the Commission would have gained valuable experience and thereby secured an advantage over fresh applicants at an open selection.

Earlier, the Government of India had decided that the Commission would advise the Governor General-in-Council as to whether the record of the officer during the period when he was temporarily employed proved him to be suitable for permanent employment.

As referred to earlier, because of the exigencies of the Second World War and the post-War reconstruction schemes the number of posts increased by leaps and bounds; and the Government of India hastily recruited men according to its urgent requirements, in many cases without consultation

with the Commission. The process of regularisation of such of these appointments as survived the War period, started only in 1950 and continued until very recent years.

Before 1955, the Commission confined itself to advising and admonishing the Ministries to adhere to the consultation rules and regulations in their own interest and in the interests of the services. When this measure proved ineffective it resorted to publicizing the irregularities. Thus the Sixth Report of the Commission, 1955-56, first dealt with six typical cases of irregular appointments. Similarly, the Ninth, Tenth and Eleventh Reports also contain such cases. These four Reports have dealt in detail with twenty cases of irregular appointments. Since the Government is not required to account for these cases in its Memoranda on the Commission's Reports, (as it is in regard to cases of non-acceptance of the advice of the Commission) one does not understand fully the reasons for such irregular appointments. However, from the detailed description of the cases of irregular appointments, one may infer the following causes:

(i) Consultation with the Commission sometimes involves inordinate delay. Therefore, Ministries make temporary appointments and then approach the Commission. This is evident from three cases out of twenty analysed.<sup>30</sup> Sometimes delay on the part of the Ministries in making reference to the Commission, turns even a justifiable case into an object of legitimate suspicion and criticism.<sup>31</sup>

(ii) There seems to be lack of proper understanding of the aforesaid provisions requiring the Commission's concurrence; or there is want of fore-thought and care in determining at the proper time whether or not the duration of the post would exceed the limit of a year. There have been, at least, three such cases that bear out this conclusion.<sup>32</sup>

(iii) Non-existence of the Recruitment Rules for the posts concerned is another factor which caused confusion and led the Government to resort to unregulated procedure. In three cases Government either adopted a procedure of its own

<sup>30</sup> Cf. Sixth Report, para 4 (c) and (f); Tenth Report, para 26 (i).

<sup>31</sup> Cf. Sixth Report, para 4 (c) and (f).

<sup>32</sup> Cf. Sixth Report, para 4 (b); Ninth Report, para 26 (i) and (v).

choice or did not act according to the specified procedure.<sup>33</sup>

(iv) Failure on the part of Ministries to refer certain cases of appointment to the Commission gives the impression of indifference to prescribed procedure. This may be inferred from the following : (1) Sometimes they did not refer such cases unless they were detected by the Commission from the monthly returns of the Ministries concerned.<sup>34</sup> (2) The provisions for temporary appointments were sometimes indiscriminately applied, even when it was reasonably clear at the time of making the appointment that it would last for a period well beyond one year.<sup>35</sup> (3) Retention of certain persons indefinitely on one ground or other and under different designations, appears to verge on the deliberate favouritism, although the retention might have been in the public interest.<sup>36</sup> (4) In spite of continued reminders, no proper or adequate reply was given, thus enabling the incumbent to continue indefinitely and acquire experience and the consequent advantage at the selection interview.

When request for *ex-post facto* approval of appointments are made to the Commission, it finds itself in a quandary. The problem in such cases is how to safeguard the merit system without causing dislocation of work consequent upon the termination of the services of such officers. When it is convinced that a Ministry's resort to irregular appointment was unavoidable, the Commission has always acceded to the request for regularisation. But in cases where there is clear evidence of irregularity and its continuance in disregard of the Recruitment Rules or the requirement to seek the Commission's advice, it has never hesitated to refuse to acquiesce in such appointments. Of the twenty cases referred to above, the Commission expressed its inability to accede to the Ministries requests in five cases. The position may improve if the

<sup>33</sup> Cf. Sixth Report, para 4 (c); Ninth Report, para 26 (ii); and Eleventh Report, para 29 (ii) and (iii).

<sup>34</sup> For a copy of the monthly returns of the Ministries with respect to vacancies newly filled up, the nature of posts and of appointments, etc. see Appendix No. 8.

<sup>35</sup> Ninth Report, para 26 (i).

<sup>36</sup> Tenth Report, para 26 (ii).

Government establishes a convention (if it is not constitutionally enjoined) of explaining the reasons why it made irregular appointments in the Memorandum on the Annual Report of the Commission. This is likely to obviate conjectures as to the motives behind such cases and Government will be less exposed to adverse criticism, if it is made known that the irregularities were unavoidable. At the same time it may make the appointing authorities behave in a more responsible manner.

### 3. CONFIRMATION

Under instructions issued by the Government of India in 1959, the Commission is to be associated with all cases of confirmation where the initial recruitment is made through it. When the D.P.Cs. consider such cases, they are presided by the Chairman or a Member of the Commission. The D.P.Cs. examine the records of the officers and assess their suitability for confirmation.<sup>37</sup>

### 4. QUASI-PERMANENCY

Among the other service matters in which the Commission is associated are seniority, domicile and quasi-permanency. For these matters Government has framed broad rules.

Quasi-permanency deserves special mention. According to Rule 3 of the Central Civil Services (Temporary Service) Rules, 1949, "a Government servant shall be deemed to be in quasi-permanent service: (i) if he has been in continuous Government service for more than three years, and (ii) if the appointing authority, being satisfied as to his suitability in respect of age, qualifications, work and character, for employment in a quasi-permanent capacity, has issued a declaration to that effect, in accordance with such instructions as the Governor-General may issue from time to time."

It has been further laid down in the procedural instructions issued by the Government in this connection, that the U.P.S.C. shall be consulted in regard to the suitability for quasi-

<sup>37</sup> Cf. Eleventh Report of the U.P.S.C., 1960-1961, para 25.

permanent appointment of those holding Class I and Class II posts recruitment to which is made by or with the concurrence of the Commission.

Rule 8 of the Central Civil Services (Temporary Service) Rules says that "a Government servant in quasi-permanent service and holding a specified post shall, as from the date on which his service is declared to be quasi-permanent, be entitled to the same conditions of service in respect of leave, allowances and disciplinary matters as a Government servant in permanent service holding the specified post".

In order to be eligible for quasi-permanency, a temporary employee should be within the prescribed age-limit for the post, should possess the minimum educational qualifications, and should satisfy the appointing authority with regard to his work, character and physical fitness.

Every temporary employee is to be considered for the grant of a quasi-permanency certificate on three successive occasions, and the advice of the U.P.S.C. should be obtained before quasi-permanency is withheld on the third and last crucial date for eligibility for such posts, recruitment to which is made on the advice of the Commission. For the grant of quasi-permanency, an officer's record of service should be taken into account; this should ordinarily be his record up to the date on which he becomes eligible for quasi-permanency. Quasi-permanency is a personal status and does not confer a lien on the post in which an officer is declared quasi-permanent. In other words, it is possible for more than one officer to acquire quasi-permanency in one and the same post.

It is evident from the foregoing discussion that the Commission is associated with most service matters besides staffing both outside and inside the service. The intention of such association is to serve two basic purposes :

(1) For the impartial consideration of service matters by an independent agency—the Commission's role is that of an arbiter between Government and its employees, although Government has an overriding authority in matters affecting the public interest ; and

(2) to protect the public service from undue influence—the Commission's role is to neutralise favouritism, political or

personal, within prescribed limits.

While the fulfilment of the first purpose is in the hands of the Commission, the full realisation of the other depends mainly on the Ministries. For, if the Commission asks for special data relevant to the exercise of its special power, the Ministries should realise that the Commission's full and effective participation in all these matters is in their best interest.

✓ *Good*

CHAPTER IX

CONCLUSION

80% *avg*

In the same spirit of reform which characterised the creation of the Civil Service Commission in the United Kingdom and the United States, the Public Service Commission was instituted in India when constitutional reforms for self-government were afoot following the enactment of the Government of India Act, 1919. In fact, "the establishment of a Public Service Commission was regarded as an essential safeguard in the working of the reforms and its enactment was contemporaneous with and formed part of the scheme of these reforms."<sup>1</sup> The United Kingdom and the United States were confronted with the necessity "to recreate that 'sphere of neutrality' destroyed when the control of the bureaucracy passed completely into the hands of politicians".<sup>2</sup> But the authors of constitutional reform in India where the civil service was already free of political interference (at least in a narrow partisan sense), wished to preserve this circumstance, by refuting the thesis that public positions are within the gift of the controlling authority, whether for personal or for political purposes. In other words, whereas in the two western democracies the primary aim of the creation of the Civil Service Commission was to "liberate" the public servant from allegiance to and dependence upon the politician, in India the bureaucracy was to be kept free from the impending encroachment of the politician. In all three countries elimination of nepotism and political abuse from public administration was to be ensured by organizing the Public Service Commission independent of, and largely external to, the administrative hierarchy.

✓ > The U.P.S.C., along with the Judiciary and the Comptroller and Auditor General, was looked upon by the authors of the Constitution of India as a bulwark of democracy. To them the existence of an independent Public Service Commission was a

<sup>1</sup> Barker, *op. cit.*, p. 6.

<sup>2</sup> Stahl, *op. cit.*, p. 511.

pre-condition for securing expert administration in a popular government. Such an independent institution, they considered, could aid materially in maintaining an essential balance between the civil servant and the politicians by sterilizing the civil service. In other words, they agreed with the Lee Commission that the Public Service Commission can protect the civil service "so far as possible from political or personal influences and give it that position of stability and security which is vital to its successful working as the impartial and efficient instrument by which Governments, of whatever political complexion, may give effect to their policies".<sup>3</sup> Further, the authors of the Constitution felt that as the guardian of merit system, the Public Service Commission will not be guided by any other consideration except merit, and thereby support and advance the meaning and practice of democracy.<sup>4</sup>

However, the Constitution-makers assumed what James Madison pointed out long ago—that men are not angels. This approach resulted in certain built-in mechanism. It was contemplated that the Commission might be exposed to manipulation both from within and without. The elaborate legal precautions prescribed by the Constitution in the matter, have had salutary effect both on the Government and the public. It must, in a way, be accounted to the credit of the Executive that, by and large, it has taken care to see that none of the appointments made to the Commission would give the appearance of being "political appointments". Similarly, the ban on re-employment of the Members after their retirement has earned them special respect because of this sacrifice in the public interest.

But it is difficult to refute the contention that these legal precautions imply a lack of faith in the integrity of the political leaders who compose the Executive, and also of the persons who are selected for appointment as Members of the Commission. All this speaks of the undue confidence the Constitution-makers placed in the saving power of machinery, apparently little realizing that the manner of administration is

<sup>3</sup> Barker, *op. cit.*, para 24.

<sup>4</sup> Compare the speeches of the Members of the Constituent Assembly.



of more importance than the system prescribed in the law. Therefore, the provisions relating to the tenure of office of the Chairman and Members of the Commission and the ban on their re-employment raise doubts as to their validity. In fact, they have given rise to certain basic issues which may adversely affect the efficiency of the Commission. Thus membership of the Commission is not likely to attract men in their mid-career. Further, with a six-year term and with a non-civil service background, one may not expect a non-official Member to be of effective use to the Commission. It may be maintained that the Constitution-makers have gone too far in applying the democratic dogma of "the amateur" in Administration, while the Commission's activities pre-suppose intensive knowledge about service matters, and ability in judging people for selection to public posts. Therefore, there is good reason to strengthen the practice of drawing non-official Members from the retiring Chairmen and Members of the State Commissions. Even if they are non-official Members of those Commissions they can be effective as members of the Union Commission to the extent of their experience in the State Commission. This should not undermine the importance of the role of the non-official Members, in reducing excessively rigid interpretation of service matters.

✓ By these constitutional arrangements, it was intended that the prestige of the Commission would be enhanced and "the danger of poisoning the waters of merit and fitness at the source" reduced. But the Commission's role as the watchdog of the merit system may not appear to be fully effective. For, it may be contended that as the watchdog has no bite, it may go to sleep at the entrance gate. Nothing limits the Commission and indicates its subservience to the Executive so much as the provisions restricting its functions.

✓ Indeed, when it came to defining the functions of the Commission, the authors of the Constitution, recognising the ultimate responsibility of the Government of the day for the proper management of all public affairs including the public services, assigned the Commission an essentially advisory and consultative rather than an executive role.<sup>5</sup> In other words,

✓ <sup>5</sup> Cf. Bapat, S.B., Public Service Commissions—An Indian Approach : an

the Commission does not itself take decisions but it assists the Government in arriving at decisions in personnel matters. It seems that the Constitution of India follows the decision made in regard to the role of the Public Service Commission by the Secretary of State and the Government of India at the time of its institution. It was then decided that the Commission should act as an advisory body notwithstanding its regulating power under the Government of India Act, 1919.<sup>6</sup> Further, the Constitution of India follows the viewpoint expressed by Sir Samuel Hoare in 1935: "It was the definite view of the Joint Select Committee and it is the definite view of my advisers both here and in India that the Public Service Commissions had much better be advisory. Experience goes to show that they are likely to have more influence if they are advisory than if they have mandatory powers. The danger is that if you give them mandatory powers you then set up two governments."<sup>7</sup>

Normally, on questions of policy the Government of India, while attaching full weight to the advice of the Commission, maintains its freedom to form its own opinion. For instance, in regard to direct recruitment for the All-India and the Central Services, for which a combined examination is held, the actual process of recruitment has been almost entirely in the hands of the Commission. In respect of all matters relating to recruitment—whether from outside or from inside the service—the Commission's advice is normally decisive.<sup>8</sup> Where questions of general policy arise, such as reservation of seats for the backward and scheduled communities, the Government may or may not seek the advice of the Commission. Where it does, it gives careful consideration to the views of the Commission, although nothing in the Constitution requires the Commission to be consulted in respect of the manner in which the Government should discharge its responsibility towards such

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Article published in the Indian Journal of Public Administration, Vol. II, No. 1, 1956.

<sup>6</sup> Memorandum submitted to the Indian Statutory Commission by the Government of India, Vol. V., *op. cit.*

<sup>7</sup> Parliament Debates, Vol. 300, col. 858.

<sup>8</sup> Cf. Appendix 6. Between 1950 and 1960 only in two cases the Commission's advice in regard to recruitment was not accepted.

communities.<sup>9</sup> The Government retains the right to request the Commission to select candidates with particular qualifications or from a particular community. But once these matters are regulated by Government, the Commission like its predecessor, is solely responsible for the actual conduct of selection. In other words, it enjoys full discretion in rejecting or accepting the candidates from the Scheduled communities, "consistently with the maintenance of efficiency of administration"—although this is wholly the responsibility of the Government under the Constitution.

The Executive may appear to be in a position of great authority in determining through rules and regulations the scope of the Commission's operations. But the constitutional provisions pertaining to the Commission's right to apprise Parliament of contrary Executive action through its Annual Reports, and Parliament's authority to approve all regulations defining the scope of the Commission including publicity and therefore, public accountability, has been a salutary deterrent to capricious inclinations of the Executive.

Further, where the Constitution contemplates the Commission's role as an advisory body, certain well-established conventions—in many cases instituted at the instance of the Executive—have largely strengthened the Commission's position. Indeed, some of these conventions are as potent as the statutory clauses. To recapitulate, some of the notable conventions are as follows :

(a) In matters where it is obligatory to seek the Commission's concurrence, the Government adheres to the Commission's advice, save in exceptional circumstances. Out of several thousands of such cases referred to it, the Government has departed from the Commission's advice in only 21 cases between 1950 and 1962.

(b) Whenever the U.P.S.C. (Exemption from Consultation) Regulations are modified, the Commission's concurrence is sought as a matter of course.

(c) The Government normally adheres to the "rule-of-one" procedure in the appointment of recruited candidates. In other words, in the placement of selected candidates, the order

<sup>9</sup> Article 320 (4).

of merit as worked out by the Commission is strictly adhered to, save in very exceptional cases.

Two consequences flow from this pattern of relationship between the Government and the Commission. First, it shows the Union Public Service Commission has been asserting itself, unlike most of the State Commissions. It also speaks for the growing realization by the Government of the importance of independent and impartial consideration of service matters and of the confidence which the Government reposes in the Commission's role in the matter. Thus, there is growing tendency on the part of the Government to seek the assistance of the Commission even in matters which are exclusively within the purview of the Government.

Indeed, the Commission is more than an institutionalized expression of the desire of the makers of the Constitution for the independent consideration of service matters. It has become the embodiment of the merit system and in certain respects an arbiter between the Government in its capacity as employer and its employees. Accordingly, the functions of the Commission may be viewed from two standpoints. First, those which are wholly the Commission's concern, as in case of direct recruitment; and those in which it is partially concerned like those of promotion, transfer, discipline, etc. Thus, in the former (particularly with selection by interview) the Ministries/Departments are associated with the action of the Commission at one stage or other, and in latter the Commission is associated with the action of the Government. In the first category of functions, the Commission is to act as the watchdog of merit in the public service, while in the latter, as a balance wheel.

Since 1855 recruitment to the services through competition at the Centre, has had a chequered history. So far as the higher services are concerned, the pattern of selection remains, in the main, the same as was introduced that year. The system of competitive examination has all along been the most consistent method of recruitment for the higher services, except during and immediately after the First and Second World Wars. However, till 1922, it was only through written examination that recruitment was made to the higher services.

Since then the viva voce is coupled with the written examination. In addition, there were two other methods of recruitment in the pre-Independence period : (i) nomination, and (ii) promotion. The first was used to recruit young promising persons from families of social standing to the Statutory Civil Service, a practice which was abolished at the instance of the Aitchison Commission in 1889. The second was resorted to till 1947 for recruitment to "listed posts" by promotion from members of the Provincial Services; and since Independence it has been employed in respect of promising officers at lower levels for their entry into higher services.

➤ A via media of "promotion" and "direct recruitment" has been resorted to in the post-Independence period when the higher services were left in a depleted form with the migration of British and Muslim officers. This technique is popularly known as "emergency" or "special recruitment". It combines the essentials of both of these methods of recruitment. Like direct recruitment, in emergency recruitment (i) applications are invited from the intending candidates; and (ii) they are required to take both written examination and personality test. In emergency recruitment, as in the case of promotion, the area of selection is determined by salary and length of service and the interviewing board is mainly guided by confidential reports of the candidates. <

It must be admitted that the system of competitive examination was never open in an unqualified sense either prior to, or subsequent to Independence. Although as early as 1833, statutory basis was provided for the right to equal opportunity in public employment, the language medium and the venue of examination established barriers which precluded the vast majority of the Indian intelligentsia from taking the competitive examination. No wonder by 1861 only one Indian could enter the higher service through the competitive examination. Consequently, the Statutory Service was established in 1879 with a view to increasing the association of Indians with the administration by nominating persons who combined talent with social standing. When it was discontinued in 1889, no substantial change was witnessed till 1922 when, for the first time, the competitive examination was conducted in

India concurrently with that held in U.K. The same year selection on the basis of communal representation was introduced which continued till the advent of Independence. However, the Constitution has authorised Government to make reservations for the Scheduled Castes, Scheduled Tribes and other backward classes, if they are not adequately represented in the service. Not only are reservations made in public positions for these backward communities but they also receive special treatment through the relaxation of conditions applicable to candidates from the more progressive classes.

As regards the intermediary and lower services no open competitive examination was held till 1922. Since 1922, the system of competitive examination was the common instrument for selection to the public service at all levels. But while the British Civil Service Commission was concerned with the superior services, the Staff Selection Board held recruitment through competitive examination for the intermediate and lower levels from 1922 to 1926. After the establishment of the Public Service Commission in India in 1926, the Staff Selection Board was abolished and the Central Commission—first the Public Service Commission, then, the Federal Public Service Commission, and now, the Union Public Service Commission, -has been functioning as the recruiting agency mainly for the All-India Services and the intermediate and higher levels of the Central Services. Recruitment to the bulk of Class III and Class IV posts and services is assigned to the Ministries/Departments concerned. Normally, the Commission does not figure in recruitment to Class III and Class IV posts and services, and what was adopted for the purpose of taking the load off the Commission's shoulders may tend to compromise the merit system.

While it is desirable that the respective operating agencies continue to have their own arrangements for recruitment to Class III and Class IV posts and services, their work should be subject to post-audit by the Commission. The essence of the merit system can be maintained without sacrificing the advantage of decentralisation of personnel administration, if the departmental selection boards follow the selection principles

laid down by the Commission,<sup>10</sup> conforming thereby, to uniform standards. Further, the Commission should be associated with the selection of members of the selection boards.<sup>11</sup> Although acceptance of the above proposals will give rise to the question of expanding the Secretariat office of the Commission, it is a consideration which should not stand in the way of uniform application of a basically sound principle.

As for testing the validity and reliability of modes of recruitment, the Commission needs to give increased attention to, and provide additional funds for test research. The Commission should start employing psychologists, and psychiatrists, not with a view to supplanting but to supplementing the present assessment techniques of the Commission, in order more accurately to test the aptitude of candidates.

The Research Unit of the Commission needs to be strengthened. More attention to the follow-up scheme may yield far-reaching results in improving the methods of recruitment and in detecting the causes of failure of selected candidates, however small the number may be.

There has been criticism of the time consumed in obtaining personnel by direct recruitment. In 1956, Paul H. Appleby reported one Minister suggesting "that the Five Year Plan should be made a Seven Year Plan so as to allow for this slow personnel procedure".<sup>12</sup> Dean Appleby's suggestion that the remedy, is not to extend the duration of the plan but to reform procedures of recruitment is the obvious answer. The time-lag between the date of receipt of the requisition and the date of issue of the recommendation letter was quite often twelve months previously, and delayed offers of appointments

<sup>10</sup> Cf. Gorwala, A.D., in his "Report on Public Administration", Planning Commission, Government of India, 1953, pp. 22 & 63.

<sup>11</sup> The Railways and the Posts and Telegraphs Departments which have regular Service Commissions and Selection Boards for recruitment to Class III services, appoint the Chairman and Members of these Boards in consultation with the U.P.S.C.

<sup>12</sup> Appleby, P.H., Re-Examination of India's administrative System with Special Reference to Administration of Government's Industrial and Commercial Enterprises, Government of India, Cabinet Secretariat, O & M Division, Delhi, 1956, p. 24.

aggravated the situation. The actual appointment of qualified candidates to the various services after a competitive examination, was not completed in time for the candidates to know how they had fared before the next examination. During 1951-52, the Commission reported that a considerable number of successful candidates had to go through the travail of sitting for the next examination before knowing the results of the preceding test. Five of them were offered appointments after the interviews for the next year's examination had commenced.<sup>13</sup> Now the time is reduced to slightly over three months.

The basic cause of delay particularly in the wake of the inauguration of the Constitution is because of the change in the concept of the State itself from that of a "Police State" to a "Welfare State". With this change the whole basis of public administration has changed resulting in quantitative and qualitative expansion of personnel.<sup>14</sup> But there has been no corresponding expansion in the strength of the Commission and of its Secretariat office to meet the growing personnel requirements. The reinforcement of the personnel, secretariat and ministerial staff of the Commission has not kept pace with the tempo and increase in the work of the Commission.

A detailed study of complaints from various quarters about delay in obtaining personnel through the Commission, reveals that it can be detected at a number of stages between sanctioning of vacancies and individual placement. From the standpoint of the Commission these stages may be studied under three heads: (i) pre-advertisement stage; (ii) recruitment stage; and (iii) post certification stage. At none of these stages, however, can the Commission alone be held wholly responsible for delay, particularly after the streamlining of its procedures, resulting in the reduction of the time consumed in recruitment from twelve months to seven months and now to about four months.<sup>15</sup> Like any other democratic process, the competitive examination is inherently slow and cumbersome. In the pre-advertisement stage the administrative agencies and the Commission in the

<sup>13</sup> The Second Report of the U.P.S.C., para 7.

<sup>14</sup> Cf. Appendices, 2, 3, 4 and 5.

<sup>15</sup> Ninth Report of the U.P.S.C., 1958-1959, para 19.



recruitment stage besides the Commission, the candidates, the examiners, the experts and departmental representatives, and in the third stage, besides the appointing authorities, the recruits, and sometimes the Commission figure. In the pre-advertisement stage, the first step of entrusting recruitment to the Commission, is the communication of requisitions for the post by the administrative agency to the Commission. Recruitment entrusted to the Commission relates primarily to two broad categories of posts. First, those that are required to be filled as a result of retirement, transfers, etc., of incumbents. Secondly, those that are newly created from time to time. There should ordinarily be no difficulty in entrusting to the Commission recruitment of the former category well in advance of the date of occurrence of the vacancy; the recruitment to the second category is naturally entrusted to the Commission after the posts have been sanctioned. Often the flow of requisitions for posts has been erratic. Sometimes, within a year requisitions for a single category of posts are sent to the Commission more than once. Other times requisitions are sent either from different Ministries or from the same Ministry for posts which require much the same qualifications and experience. So far as the Commission is concerned, the situation may improve by forward and effective planning in the matter of entrusting recruitment to them. The administrative agencies should estimate the number of vacancies that are likely to occur in the normal course during the year and inform the Commission to enable the latter to plan recruitment on an annual basis. For effective co-ordination between the Commission and the administrative agencies in regard to personnel requirements, a closer association of the Commission with the planning agencies will further reduce the avoidable delay. For instance, if the Commission is kept posted with the personnel requirements, it may augment the reserve list to meet demands as they arise.

In the pre-advertisement stage the framing of recruitment rules may take time. When a post is created, the Commission should be informed immediately and the administrative agencies should finalise the rules in consultation with the Commission.

In the recruitment stage, a factor that tends to prolong the testing procedure and to delay the completion and publication of results is the large number of applicants. The number of applicants could be reduced by devising new standards in consultation with the educational institutions.

Finally, the interval between certification of the suitable candidates by the Commission and the offer of appointments is sometimes unduly long. As a result some recruitment becomes infructuous. If the methods of investigating the antecedents of the successful candidate are improved, complaints in regard to delayed offers may be minimised. Sometimes it is argued that the Commission has not succeeded in putting the right man on the right job. This may be attributed to the growing complexities of developmental administration entailing the services of specialists. The situation can improve.

⇒ (a) If the educational system is so geared as to meet the requirements of the public service also; and until such time when the educational institutions are able to meet the needs of the public service, rigorous post-entry training courses for the new entrants should be organised; and

(b) If the Ministry concerned shares with the Commission the search of right candidates for the right jobs. <

So much in regard to the first category of functions, i.e., direct recruitment; in regard to the second category of functions which relate to service matters such as promotion, transfer, discipline, etc., the Commission's role tends to involve protecting the interests of the serving civil servants rather than the merit system itself. There are practical limitations to the Commission's role as the guardian of the merit system. In the first place, the administrative agencies and not the Commission, are primarily concerned with them. For while executive action in the matter does not become operative without its approval, the Commission's role is that of a ratifying agency. Its right to call for any information it requires notwithstanding, it may not be possible for the Commission to master every detail of a case before it pronounces its verdict. Secondly, even if these service matters are entrusted wholly to the Commission, its knowledge of the persons involved, will be limited. For the

nature of these matters is such that the administrative agencies figure prominently. Therefore, there have been more cases of non-acceptance of the Commission's advice in regard to these matters than in regard to recruitment.

Whenever the executive agencies have departed from the advice of the Commission they have done so only on the oft-quoted plea: "in the public interest"—which may have the effect of overriding the interests of serving civil servants.<sup>16</sup> Sometimes, it has been contended that the Commission attached undue importance to the rights and expectations of the civil servants. This gives rise to the basic issue of "public interest" versus "service interest".

It may be said that although the immediate and normally overriding responsibility of every official is to exercise his authority to the best of his ability, public interest is still the final justification for this authority and for the constitution that confers it. He cannot avoid exercising his discretion, and in doing so he often must act according to his own interpretation of the public interest.<sup>17</sup>

In this context, the activities of both the Executive and the Commission exert an influence over public policy in proportion to the extent of its power over people. The Executive is in a broad sense, the general interpreter of the public will (which finds expression in laws enacted by the Legislature) in terms of practical reality. Furthermore, its area of concern includes that of the Commission—service interest. The adjustment by the Executive of conflicts between service interest and the interests of other sectors is a necessary pre-condition for realizing the public interest. It is quite possible that the Commission and the Executive may employ conceptions of the public interest which are at variance in a specific or even in a general situation. The emerging differences are to be referred to Parliament which is the ultimate custodian of the public interest, and the ultimate authority to which the Commission has the right of reference against executive action.

<sup>16</sup> For the contention of the Government as the guardian of the public interest and the Commission as the protector of the rights and expectations of the serving civil servants, see Muttalib's Case Study, *op. cit.*, pp. 86-90.

<sup>17</sup> *Ibid.*, p. 52.

As regards the role of Parliament, one may doubt its competence to sit in judgment in regard to service matters in the absence of expert knowledge and because of the Commission's comparatively limited channels of communication. While it is not desirable for the Commission to have direct access to Parliament, it may be possible for Parliament to play a more understanding role perhaps through a special committee. Finally, the efficacy of Parliamentary control over this relationship, appears to be tenuous. There is no time-limit for Government to place the Commission's Report with a memorandum thereon before Parliament on cases of non-acceptance of the Commission's advice. A late *post mortem* loses much of its effect.

There are some who take exception to Parliament's role in the matter. Thus Paul H. Appleby observed that "by Parliament's endorsement of the formerly small and narrow approach of the Public Service Commission to its own functions in the mistaken belief that this strengthens the merit system, it undermines the responsibility of the Ministries and thereby undermines the responsibility of Parliament".<sup>18</sup> Dean Appleby's apprehension does not appear to be real when the Executive in a Parliamentary system is always sure of carrying the day in Parliament. On the contrary, this device of publicity which may expose both the Executive and the Commission to criticism in Parliament, in the Press and elsewhere, causes them to proceed with some restraint and to exercise their authority to the best of their abilities. At times, it is inevitable that they "agree" to disagree.

Allied to this question is another involving the role of the Public Service Commission. It is held by some that the Executive, which is responsible to the tax-payers, knows best what its personnel needs are. The function of the Commission should, therefore, be to assure the tax-payer that he is not being saddled with persons who are incompetent or unsuitable for the post for which they are recruited. Others believe that some independent authority like the Commission must be

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<sup>18</sup> Appleby, P.H., Re-Examination of India's Administrative System, Government of India, 1956, p. 44.

there to give truthful advice to the Executive, without fear or favour, to ensure equality of opportunity, and to see that the persons selected are not just competent and suitable but the most competent and the most suitable.

It is difficult to suggest which of these views is exemplified in the practice and the conventions followed by the Commission. The first view is a negative approach to the Commission's functions of a guardian "using its vantage point to keep the rascals out by insisting upon competition in the interest of merit". The second view is a positive approach to service matters; it places greater emphasis on the "service philosophy", and expects the Commission to take definite steps to attract the most able and best qualified candidates. The methods employed by the U.P.S.C. in the performance of its duties are, by and large, appropriate and effective in weeding out the incompetent and the unsuitable, and in creating a "sphere of equal opportunity" as laid down by the Executive and by constitutional provision. An anomaly arising out of simultaneous examinations in India and the U.K. for the Indian Civil Service before 1943, was the success of Indian competitors in London who were often inferior to the unsuccessful Indian competitors in India.<sup>19</sup>

It is, however, difficult to sustain the view that the most competent and the most suitable are selected for positions at the Centre. For there is no guarantee that every successful

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<sup>19</sup> In the pre-Independence period when competitive examinations were held simultaneously in India and the United Kingdom, the system of recruitment caused unfairness and discontent. In practice Indians, as Sir Ross Barker suggested, discovered that it was much easier to get into the I.C.S., in London, than in India. A practice, he added, sprang up whereby a candidate, who failed in India, went to London if he could raise the necessary funds and succeeded there. For instance in the London examination of 1927 no less than ten candidates were successful who had previously failed in India. One candidate was successful whom the Public Service Commission had rejected in India as being too bad even for nomination as a member of a minority community (p. 39). What was said about the quality of the successful Indians at the London Examination, might apply to the Europeans selected through the same examination. The phenomenon described by Sir Ross remained substantially unchanged till the last examination was held in London in 1943.

candidate at the Combined Competitive Examination for the I.A.S., Central Services, etc., is superior to those selected for the State Services for employment in the private concerns. There are instances of candidates who, although unsuccessful in applying for State Services and for employment in certain concerns of high repute, have been successful in the Combined Competitive Examination for the I.A.S., Central Services, etc. Therefore, the task of the Commission should be not only to select the best among the candidates, but also to draw into the competition others who satisfy the motto: "The best shall serve the State".

➤ A variety of reasons preclude the Central Government from getting a fair share of the cream of the Universities. First, a graduate seeking employment is confronted with a bewildering variety of alternatives. In India almost all the higher, middle and lower-middle non-technical classes of the public service are staffed by graduates, that is to say, by a class of persons who differ little in their degree of education. It might be quite accidental that a person of outstanding attainments did not take the examination for entry to the All-India Services and the Central Services. It may happen in the case of a person from the rural areas or from the poor and backward classes, having little contact, if any, with persons representing the agency or the government. The remedy is "an aggressive search for the best qualified candidates through concentration on the most promising potential sources of supply" and more penetrating techniques of advertisement, personal contact and other means of tapping the potential personnel sources. This involves the creation and employment of well trained and skilled public relations men. Secondly, with the emergence of keen competition in the labour market, resulting from the advent of new enterprises, both in the private and public sectors the Government is losing its position of monopolist employer.<sup>20</sup> Non-governmental employment provides not only alternative career openings for talented young Indians, but offers more attractive conditions of service, thus challenging the pre-eminent position of

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<sup>20</sup> The following provides the competing positions:

government service.<sup>21</sup> Sometimes they drain off the ablest people from the Ministries. Thirdly, it is an ordeal for a graduate who has just emerged from his degree examination to run the gamut of a multiplicity of career examinations. Candidates from the middle and lower-middle classes cannot afford to go in for these examinations; nor can they wait long when as many as seven months elapse before appointment.

Fourthly, recruitment to the public service on a career basis is at a relatively early age, which precludes the entrance of "late flowering" talent. These may well be persons from rural areas and backward sections of the population who do not have opportunities to develop their "potentialities" in early life.<sup>22</sup> There are at least two other factors which harden resistance to lateral entry of personnel. The members of the superior service who have entered the service by the recognized door, look with disfavour on those entering by other doors. Lateral admission to the service raises difficulties of status and salary. The service must nevertheless be opened to the "steady and balanced infusion of new blood from the main streams" of business and professional communities. Such an

<i>Year</i>	<i>Plan</i>	<i>The Union Govt. Outlay</i>	<i>Private Sector Investment</i>
1950-51 to	First Five		
1955-56	Year Plan	Rs. 827 Crores	Rs. 1800 Crores
1955-56 to	Second Five		
1960-61	Year Plan	Rs. 2241 „	Rs. 3100 „
1960-61 to	Third Five		
1965-66	Year Plan	Rs. 3900 „	Rs. 4300 „

<sup>21</sup> So far as the salary structure of Central Government employees is concerned, the starting salary offered to a Class I officer, even in the revised pay scale, is Rs. 400 per mensem (basic). The usual minimum starting salary for officers in the leading concerns in the private sector is Rs. 500. The minimum salary offered no doubt, serves as a magnet to attract prospective employees.

<sup>22</sup> It may be noted that though 75 per cent of the population are in the agriculture sector, their average representation in the public service is very low, for instance, in the I.A.S., during 1948-1960 it was only 8 per cent. For detailed study of representation of other weaker sections of the population in the public service vide Rao, D.N., "Disparities of Representation in I.A.S.", *op. cit.*

exchange is necessary particularly in the case of some specialised posts in the middle and higher grades "to prevent an isolated, inbred bureaucracy, unaware of, and therefore unresponsive to, the views and purposes of elected officials". Further, in the absence of any regular streamlined mode of interchange with other fields of Indian life,—business, the trade unions, universities, the professions, etc.,—the public employer runs the risk of being exposed to the charges of patronage and favouritism.

The special recruitments to the All-India Services, are definite steps in the right direction. What was resorted to because of abnormal conditions obtaining in the public service in the post-Independence period, may have to be adopted as a normal means of selection after a review of the position at stipulated intervals of time. This could be the answer to some of the conspicuous shortcomings of the existing recruitment arrangement. First, it will afford a simplified method of entry to the public service for the lateral entrants. Secondly, it may facilitate the flow of fresh blood from non-governmental employment. Finally, it will avoid undue accent on seniority as a guiding factor in promotions in the sense of elapsed time, and not in the sense of maturity and cumulative experience for it will provide young officers in Class II and Class III services an opportunity to enter the higher services.

This brings in focus the system of promotions in a career service involving a question : how high in the ladder of the administrative hierarchy should posts be open to the career official and at what points should posts in a Department be filled by persons from outside the service and under what conditions ? No final and dogmatic answer can be given to this question for conditions vary from one Department to another. But in the higher grades candidates should be inducted after vigorous tests of merit and fitness, and then only when the post is so highly technical and difficult that it cannot adequately be filled by promotion or transfer within the service. Special recruitment will have to be qualified by these conditions.

Despite the limitations of public service, there are many factors which create congenial conditions for promoting and



realising the cardinal objective of the Commission: the adoption of practices and procedures for attracting the cream of the Universities into the public service. First, because India is a predominantly agricultural economy controlled by private individuals, the public service enjoys a unique prestige, a historical growth. Until recently, instead of being one of a number of rival competitors, the public service was practically in the position of a monopolist employer, unembarrassed by a trade union, supplied with an abundant labour market, and by reason of these factors free to fix its own rate. And in spite of emerging forces operating against the traditional image of the public service, it remains the pace-setter in employment matters. Further, apart from zeal for national service, the comparatively high degree of security enjoyed by the members of the public service is an important factor which attracts persons of superior ability—although this advantage is narrowed down with the spectacular rise in industrial production and the consequent tight-skilled labour market.

➤ Yet another factor which facilitates the Commission's task in attracting able and qualified candidates is that it recruits more for careers than for isolated jobs. < Where there are isolated posts, to be filled in any number, the Commission has been pressing the operating agencies to organise them as far as possible into career services. For instance, previously the Commission was recruiting for posts in the field of electronics under various Departments separately by selection. Now a few of them have been combined and the Engineering Service (Electronics) Examination is held.

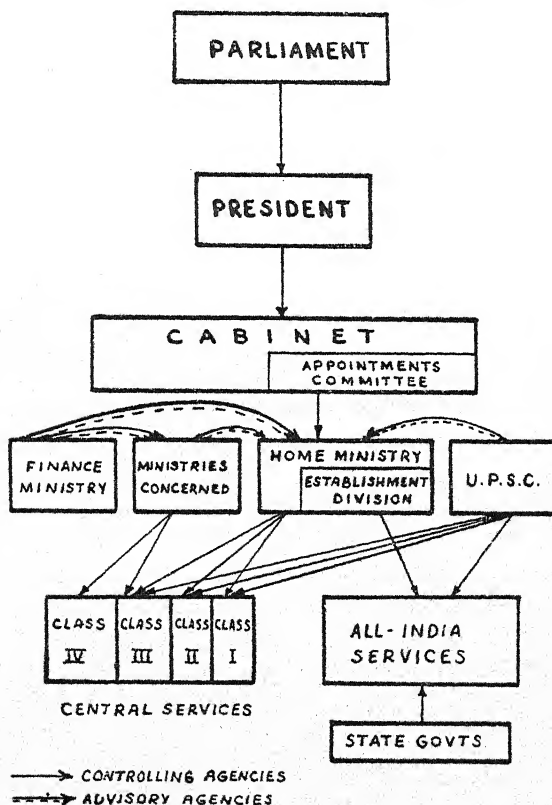
+ The Commission had also been considering the question of using bulk advertisements for similar posts under various Departments. This could not be achieved as the participating Departments had to assess or forecast their requirements. The idea has, however, been put into practice by clubbing requisitions for similar posts from different Departments together or in advertising vacancies for a particular Department, adding that it is also a general advertisement for similar posts in other Departments for which the Commission may get requisitions later.

The recruitment rules are an important instrument in

organising posts and services on a career basis. In framing the recruitment rules for posts and services, some emphasis tends to be placed on properly balanced promotion opportunities.

Before we conclude our study of the U.P.S.C., it is desirable to examine whether the existing personnel establishment (comprising the U.P.S.C., the Establishment Division of the Ministry of Home Affairs, the Departmental Selection Boards and the Departmental Establishment Offices) is able effectively to carry on constructive personnel activity. The Establishment

DIAGRAM - 3  
CENTRAL PERSONNEL MANAGEMENT



Office in the Home Ministry is the primary operating personnel agency. It deals with (i) the recruitment policy; (ii) allocation of personnel selected through the competitive examination; (iii) rules pertaining to discipline in the services; (iv) control over the services personnel in postings and transfers; and (v) the conditions of service in the Central Government. The Establishment Office thus serves both as a staff aid and as a control device for Executive. Service matters of the key services and posts are handled centrally, and those of other classes are decentralized to the executive Ministries. To sum up, the Establishment Division together with the Establishment Offices, constitutes an "arm" of the Executive and a tool of controlling the services at the Centre.

Thus the regulatory and operative functions of the Government of India are bifurcated and assigned to the U.P.S.C. and the other recruiting Departmental agencies on the one hand, and the Establishment Division and the Establishment Offices on the other. There are two schools of thought regarding the organisation of a personnel agency and operation of its functions. The first view is that the two functions should not be combined in a single agency as it leads to confusion and inefficiency.<sup>23</sup> A bifurcation of these functions is basically sound; for while the personnel agency is essentially a tool of top management, it is benefited by unbiased consideration of service matters by an independent agency. This view is also based on the assumption that an outside agency like a Public Service Commission, with its restricted authority, is not a proper agency for giving central leadership in the overall task of managing employees.<sup>24</sup>

The other view is that these two functions, *i.e.*, "control" and "service", cannot be and should not be separated. Compliance with the provisions of a particular rule or order in regard to personnel activity requires some central review and direction; far more significantly, it requires widespread

<sup>23</sup> Cf. Lewis Mayers' and Lewis Merian's views as quoted by McDiarmid, J., *The Changing Role of the U.S. Civil Service Commission*, *American Political Science Review*, Vol. 40 (December 1946), pp. 1067-1096.

<sup>24</sup> *Ibid.*

understanding and technical competence within each Department. The former is regulatory, the latter a matter of education; yet they are complementary. When these functions are separated the quality of the regulations may suffer and the regulatory agency may not be able to secure any real degree of compliance. When they are combined it is argued that:

(a) the basis for future friendly personal relations is strengthened—a recruiting agency like the U.P.S.C., will no longer be regarded as an outside agency;

(b) the central agency gains in knowledge and appreciation of operating problems which enlighten the formulation and administration of classification controls; the U.P.S.C. in that event, will be closely associated with a wider range of service matters;

(c) the departmental officials will have a better chance to clarify their understanding and appreciation of the desirable aspects of general controls, and are more likely to exert their influence towards agency compliance. Under the existing arrangement because of bifurcation of these functions, the administrative agencies find it cumbersome; and

(d) the central agency will be constantly reminded that its only *raison d'etre* is the facilitation of the public activities of the operating agencies;<sup>25</sup> for separation of “control” and “service” functions tends to lessen its efficacy.

Arrangements for personnel administration that exist in most of the States of India and which have had inspiration from its British counterpart deserve close observation in this regard. The system is basically sound and effective. Thus there is a Chief Secretary who is the official head of administration and is in control of the operating services. At the Centre, there is more than one authority in control of the services, necessitating a cumbersome and time-consuming process of consultation in the disposal of service matters. For instance, if a retiring officer is to be re-employed, the decision by a Department for re-employment is preceded by a long consultative procedure involving the concurrence of the U.P.S.C., the Ministry of Home Affairs, the Ministry of Finance and in certain cases the approval of the Appointments Committee of

<sup>25</sup> *Ibid.*, Cf. John McDiarmid's views.

the Cabinet.<sup>26</sup> Furthermore, it does not appear to be appropriate and adequate to assign the administration of the services to the Ministry of Home Affairs, whose primary responsibility is after all the maintenance of internal security.<sup>27</sup> If the State arrangement could be the prototype, it would create a feeling of confidence in the officers that their legitimate interests were being safeguarded and their promotions regulated by consideration of efficiency and suitability. This arrangement would not require any modification in the statutory position of the U.P.S.C. It would contribute towards the strengthening of the Commission's position; for under such an arrangement one may expect a greater degree of compliance with rules and regulations, thus enabling the Commission to function more effectively. The number of cases of irregularities would tend to be minimized.

Alternatively, if the Union Government personnel administration is to be patterned after that of the U.S., the existing arrangement will of necessity, undergo radical transformation. The U.P.S.C.'s functions and character could not in that event remain unchanged and changes might involve constitutional amendment. Under this pattern the functions of the Commission relating to the control and regulation of the services could be advisory in relation to the operating agencies; and the functions of the Establishment Division of the Ministry of Home Affairs would have to be transferred to the Commission; its Chairman would have to have direct access to the Chief Executive in order to make representation on grievances and other matters. The Commission in that case, would emerge as a truly central personnel agency.

It may be added that this second alternative seems to have been the ultimate goal for the Commission when it was decided before the establishment of the Public Service Commission in 1926 that it should not be given the powers of control contemplated by Section 96 C of the Government of India Act, 1919, and that it should be set up in the first instance

<sup>26</sup> Where the advice of the Commission is to be set aside, the approval of the Appointments Committee of the Cabinet is required.

<sup>27</sup> Cf. A. Chanda in his book "The Indian Administration" expressed more or less similar views.

“as an advisory and not an executive body”.<sup>28</sup>

Explaining the reasons why certain service matters were not to be referred to the Commission and why yet others were excluded from its purview, the then Government of India told the Simon Commission in 1928:<sup>29</sup> “...the Commission is still a comparatively new body, not conspicuously strong in Indian Administration, experience and occupied with many problems which at the outset were quite new to the majority of the Members. The Government of India deliberately refrained from throwing upon the Commission at the beginning a burden of work which they might have found difficult in meeting.” But it was impressed upon the Simon Commission that after about two years’ experience the Commission “fully established itself” and began “to form its own traditions and to gain acquaintance with the administrative working of services”. The Government of India concluded saying, “...it would seem that the time has come to utilise the Commission more freely in advising generally on all kinds of service problems”. It concurred with the Lee Commission that it had acquired a fund of experience which would qualify it to give advice which might be regarded as authoritative.<sup>30</sup> The authors of the Government of India Act, 1935, accepted this suggestion and the responsibilities of the then Commission were enlarged, without however, changing the basic character of the Commission as an advisory body. This process of augmenting the jurisdiction of the Commission has continued. In 1946 the executive orders extended the Commission’s functions and its association with other service matters like promotion, extension of service, etc., was urged.

It may be said that the very enactment of the Constitution of India was a step towards the achievement of ultimate general control by the Commission over service matters. With long traditions behind it, the U.P.S.C. has set the pace in asserting its independence and justifying its existence. A logical and natural development would be a move towards

<sup>28</sup> Memoranda submitted by the Government of India to the Indian Statutory Commission, Vol. V, 1930, *op. cit.*, p. 1324, para 3.

<sup>29</sup> *Ibid.*, p. 1327, para 6.

<sup>30</sup> *Ibid.*, p. 1328, para 8.

according the Commission the role of a central personnel agency, like that of U.S.A. In the transitional stage a closer working alliance between the Commission and the Establishment Division of the Ministry of Home Affairs may be sought with a view to the eventual absorption of the Establishment Division by the Commission.

All this gives rise to a basic question : Is or must the Commission be an advisory body? Lyman Bryson's observations on advice offers guidance in this regard "...we think of the policy-making decision as a terminal point in a process. The expert is called in to help eventually in giving that decision as much prescience and caution as is possible. The expert is not responsible, however, for making it; if he does, he is fulfilling the function of administration, not of advice...the function of advising is performed by all the members of an organization in some contexts and that this advice-giving is almost never politically innocent. It is only the outsider, the expert who is paid primarily for his advice and listened to for his special professional knowledge, who can expect his opinions to have entirely objective standing".<sup>31</sup> The Commission under Bryson's definition is essentially an outside advisory body, for it helps the Executive in arriving at decisions in regard to service matters. However, it is caught in the process of decision-making. This is indeed, a logical outcome of its relationship with the Executive which is based on an established convention that the Commission's advice should normally be accepted. Thus the established relation does not demand of it alternative courses of action, but an absolute map of the future. Where it finds its ideas are subject to interpretation by the Executive before they are finally accepted or discarded, it possesses a right to protest and argue; it may find itself silenced by the claim that its expertness goes only to the general idea and that translating it into action requires another kind of knowledge which it does not possess—that is knowledge special to the time and occasion and occupational in character. Unlike an outside expert, the Commission's advice-giving is not wholly politically innocent. For it is its constitutional duty to report annually its activities

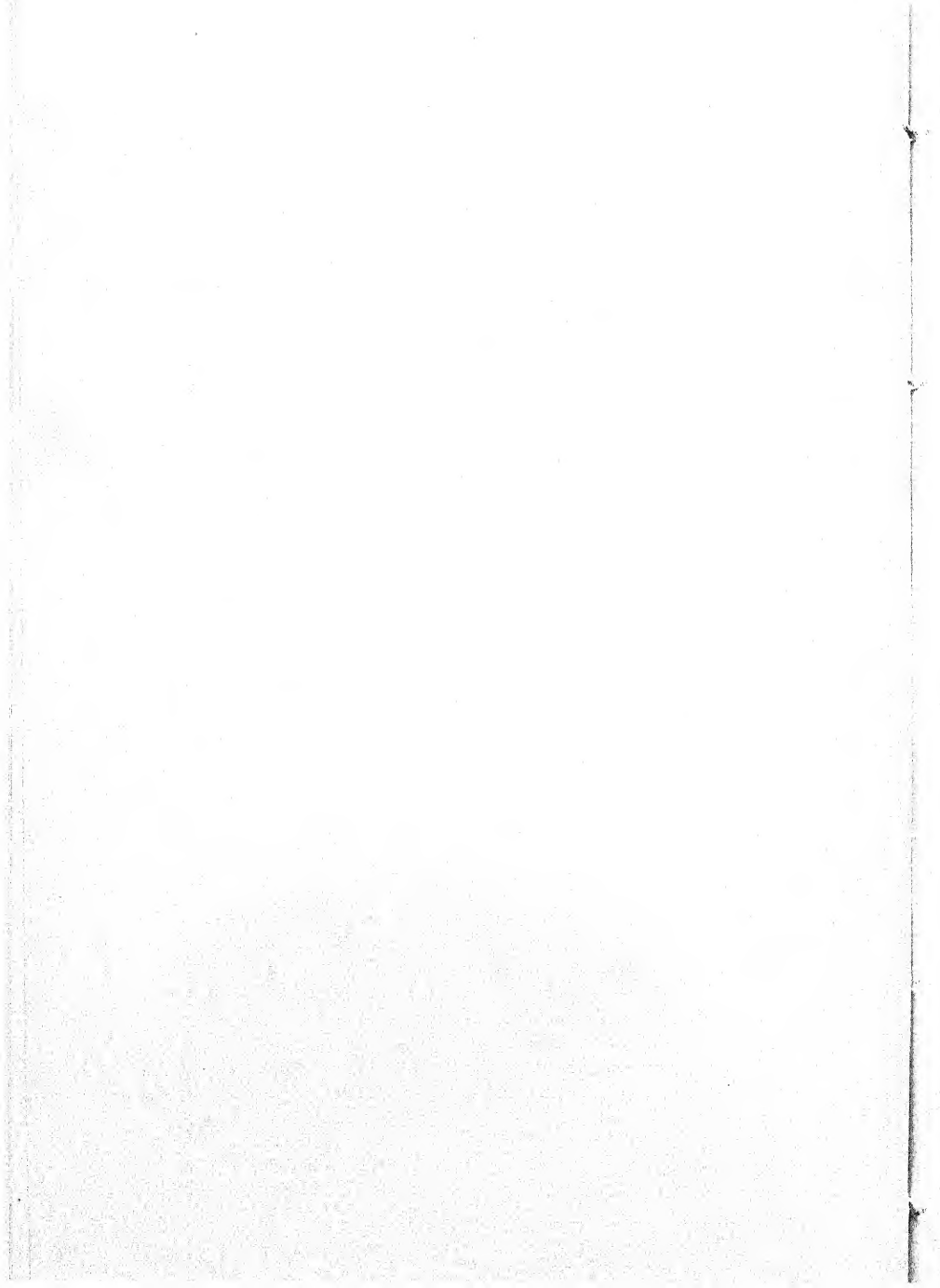
<sup>31</sup> *Ibid*, p. 1328, para 8.

to Parliament where it is exposed to criticism—although the intention of the authors of the Constitution seems to be only to keep the Executive in check through publicity. In view of its responsibility to Parliament, the Commission in a sense fulfils the function of administration, not of advice. It is this provision which may be likely to damage its sense of objectivity and its reputation for disinterested knowledge. Therefore, Parliamentary criticism of the Commission is not desirable. Further, it is unparliamentary to criticise one who is not present in Parliament to defend oneself.<sup>32</sup> Indeed, the right relation of the Commission and Government is one of knowledge and power, involving the discovery or the invention of techniques of putting knowledge at the service of power.

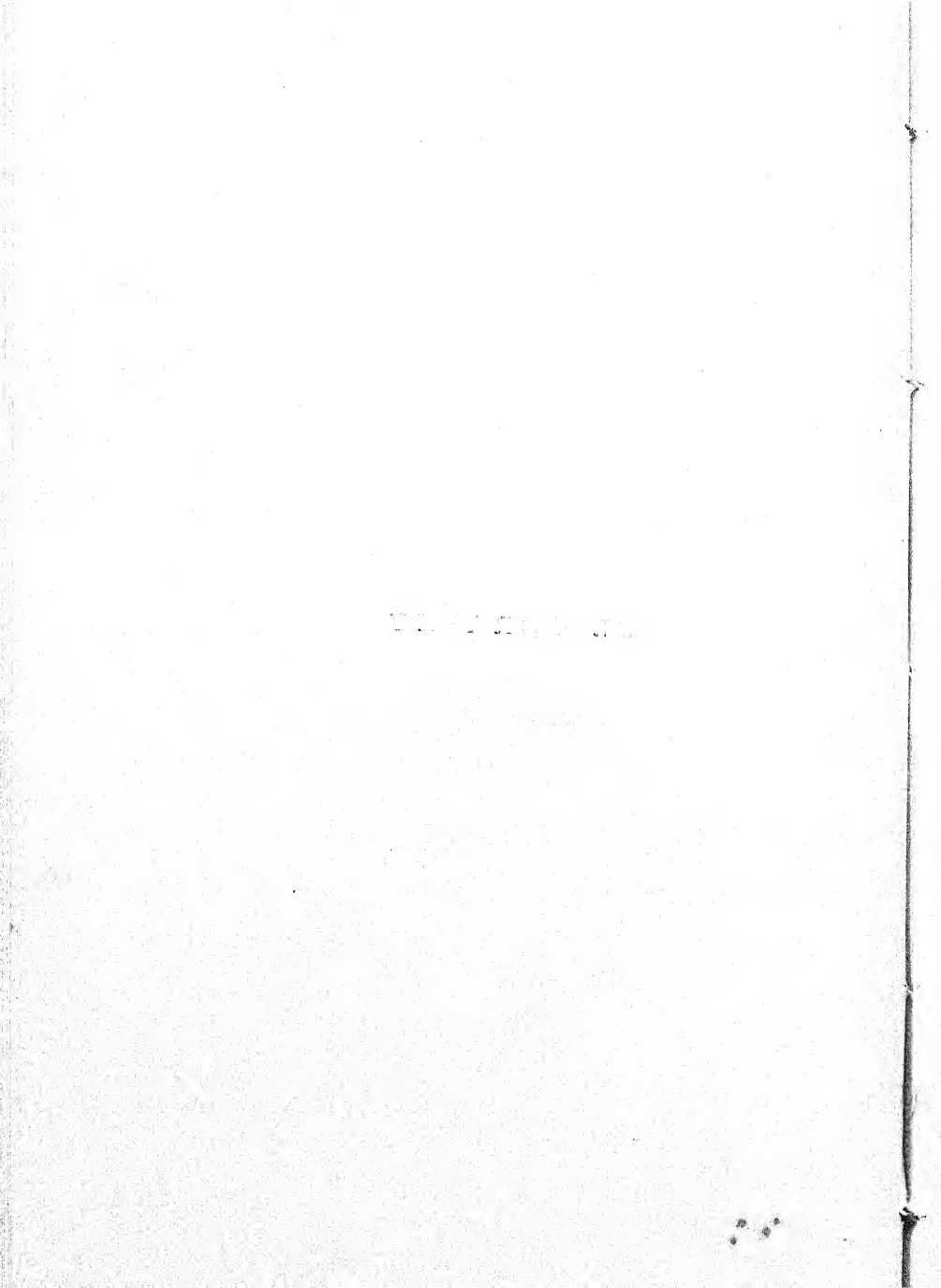
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<sup>32</sup> It is interesting to note the remarks by the Deputy Chairman of the Rajya Sabha on December 22, 1954, before the House considered the Commission's first three Annual Reports for 1950-51, 1951-52 and 1952-53. He remarked, "Any debate in Parliament may rightly include criticism of Government for any acts or omissions in the exercise of the powers and duties specified above and will be certainly relevant but any criticism of the suggestions or decisions of the Commission will not be relevant because it is a constitutional authority. I hope the Members will bear that in mind". The remarks of the Deputy Chairman of the Rajya Sabha do not appear to be in consonance with the actual practice. Time and again, the activities of the Commission have been subjected to criticism by Members of Parliament. (Vide "Cases in Indian Administration", *op. cit.*, p. 91).





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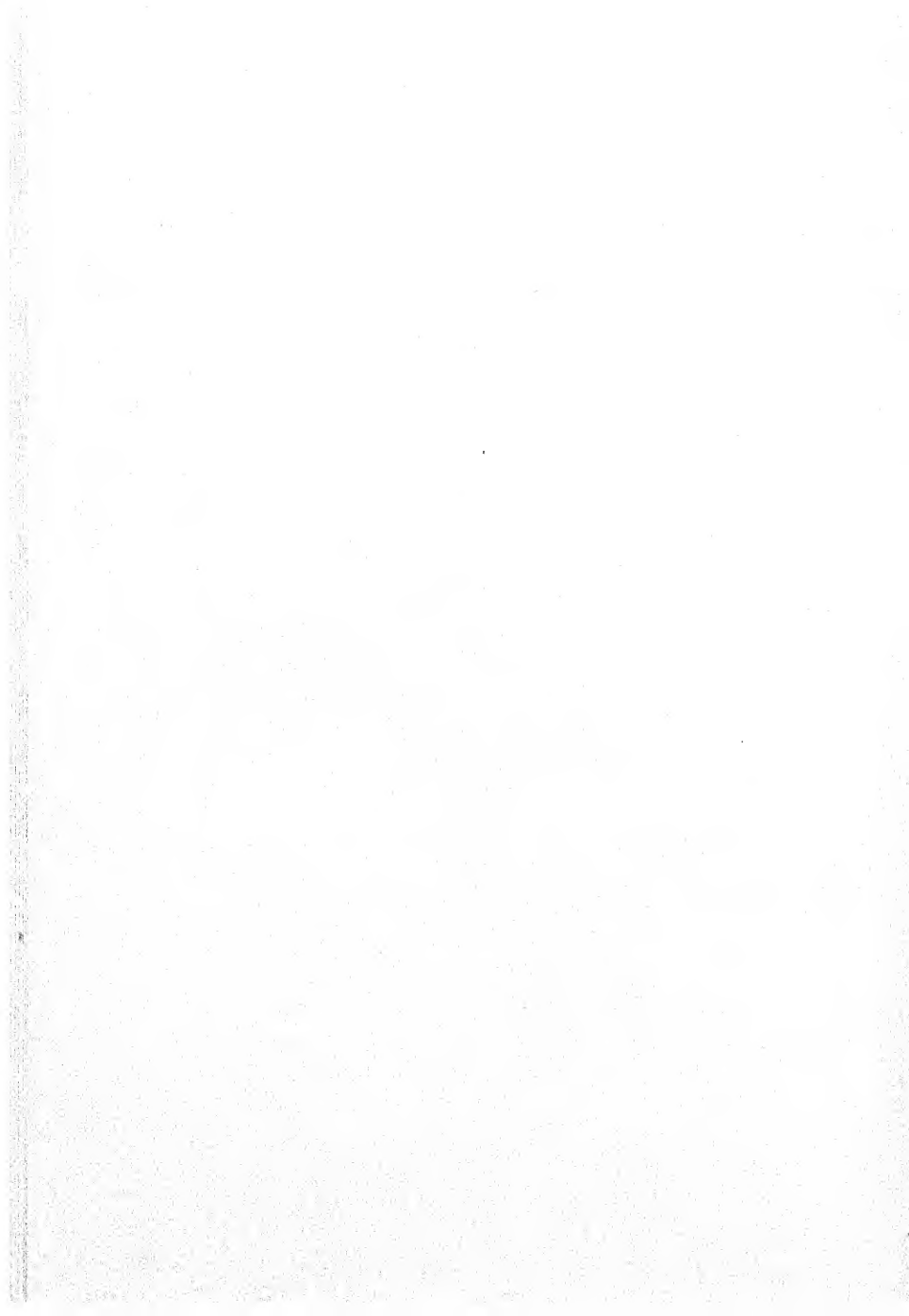
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The Union Public Service Commission (Exemption from Consultation)  
Regulations, 1958.

## APPENDICES





## APPENDIX NO. 1

### The Union Public Service Commission (Exemption from Consultation) Regulations, 1958.

N. F. 18/4/51-ESTS (B)  
Government of India

Ministry of Home Affairs  
New Delhi, the 1st September, 1958  
the 10th Bhadra, 1880.

### NOTIFICATION

(As amended up to the 16th December, 1958)

In exercise of the powers conferred by the proviso to clause (3) of article 320 of the Constitution and in supersession of all previous regulations on the subject, the President hereby makes the following regulations, namely :

1. These regulations may be called the Union Public Service Commission (Exemption from Consultation) Regulations, 1958.
2. It shall not be necessary to consult the Commission in regard to any of the matters mentioned in sub-clauses (a) and (b) of clause (3) of Article 320 of the Constitution in the case of the services and posts specified in the Schedule to these Regulations.
3. Save as otherwise expressly provided in the rules governing recruitment to the civil service or civil post concerned, it shall not be necessary to consult the concerned, it shall not be necessary to consult the Commission in regard to the selection for appointment :
  - (a) to a post included in an all-India Service, of any officer who is already a member of an all-India Service;
  - (b) to a post included in a Central Service Class I, of any officer in the Armed Forces of the Union or any officer who is already a member of an all-India Service or a Central Service Class I;
  - (c) to a Central Service Class II, or to a post included in a Central Service Class II, or any officer who is already a member of a Central Service Class II, or Central Service Class III, or of any officer in the Armed Forces of the Union; and
  - (d) to a tenure post included in a Central Service Class I, or a Central Service Class II, of an officer of a State Service.

**Note :** In this regulation :

- (i) the terms "Central Service Class I", "Central Service Class II" and "Central Service Class III" shall include the corresponding Railway Service, and Defence Service (Civilian);
- (ii) the term "Officer" includes a person holding a permanent or quasi-permanent appointment, but does not include a person in temporary employment;

- (iii) the term "State service" means service in a State, appointments to which are made by the Governor;
- (iv) the term "tenure post" means a post, whether permanent or temporary, which has been classified as a tenure post in consultation with the Commission.

4. It shall not be necessary to consult the Commission in regard to the selection for a temporary or officiating appointment to a post, if

- (a) the person appointed is not likely to hold the post for a period of more than one year; and
- (b) it is necessary in the public interest to make the appointment immediately and a reference to the Commission will cause undue delay.

Provided that—

- (i) such appointment shall be reported to the Commission as soon as it is made;
- (ii) if the appointment continues beyond a period of six months, a fresh estimate as to the period for which the person appointed is likely to hold the post shall be made and reported to the Commission; and
- (iii) if such estimate indicates that the person appointed is likely to hold the post for a period of more than one year from the date of appointment, the Commission shall immediately be consulted in regard to the filling of the post.

5. (1) It shall not be necessary to consult the Commission in regard to the making of any order in any disciplinary case other than—

- (a) an original order by the President imposing any of the following penalties :
  - (i) censure;
  - (ii) withholding of increments or promotion ;
  - (iii) recovery from pay of the whole or part of any pecuniary loss caused to the Government by negligence or breach of orders;
  - (iv) reduction to a lower service, grade or post, or to a lower time-scale, or to a lower stage in a time-scale;
  - (v) compulsory retirement;
  - (vi) removal from service;
  - (vii) dismissal from service;
- (b) an order by the President on an appeal against an order imposing any of the said penalties made by a subordinate authority;
- (c) an order by the President over-ruling or modifying, after consideration of any petition or memorial or otherwise, an order imposing any of the said penalties made by the President or by a subordinate authority.

(2) It shall not be necessary to consult the Commission in regard to any disciplinary matter affecting a person belonging to a Defence Service (Civilian).

(3) It shall not be necessary to consult the Commission in regard to any order made under the Central Civil Services (Safeguarding of National Security) Rules, 1953 or the Railway Services (Safeguarding of National Security) Rules, 1954.

V. VISWANATHAN

*Special Secretary to the Government of India.*

No. F. 18/4/51-ESTS(B)

New Delhi, the 1st September, 1958  
the 10th Bhadra, 1880

Copy to :

- All Ministries of the Government of India, etc.
- All Zonal Councils.
- All State Governments and Union Territories.
- All Sections of this Ministry.

P. SITARAMAN

*Deputy Secretary to the Government of India.*

### SCHEDULE

(1) Posts in respect of which the authority to appoint is specifically conferred on the President by the Constitution.

(2) Posts of Chairman or Members of any Board, Tribunal, Commission, Committee or other similar authority created by or under the provisions of a statute.

(3) Posts of Chairman or Members of any Board, Tribunal, Commission, Committee or other similar body appointed by or under the authority of a resolution of either House of Parliament or by a resolution of Government for the purpose of conducting any investigation or enquiry into or for advising Government on specified matters.

(4) Posts of Heads of Diplomatic, Consular, and other similar Indian Missions in countries abroad (e.g., Ambassadors, High Commissioners, Ministers, Commissioners, Consuls-General, Representatives Agents).

(5) Posts on the personal staff attached to holders of posts mentioned in items (1) to (4) above.

(6) Posts in the Secretariats of the Lok Sabha and the Rajya Sabha.

(7) All technical and administrative posts in or under the Atomic Energy Commission.

(8) Judicial Commissioners and Additional Judicial Commissioners, District Judges and Additional District Judges in Union Territories.

(9) Subordinate Judges and Munsiffs in the Union Territories of Manipur, Tripura and Himachal Pradesh.

(10) All Class III and Class IV services and posts, save as otherwise expressly provided in the relevant rules or orders governing recruitment thereto.

(11) Any service or post concerned with the administration of the North-East Frontier Agency.

(12) Any Service or post or class of posts in respect of which the Commission has agreed that it shall not be necessary for it to be consulted.

V. VISWANATHAN  
*Special Secretary*

# APPENDIX 2

## Examinations held by the Commission in the Year 1960-61

APPENDICES

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Sl. No.	Name of Examination	No. of Examinations	No. of Posts	Number of Applicants			No. of Candidates who Actually Appeared			No. of Candidates Interviewed			No. of Candidates Recommended for Appointment			Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
				Total	Scheduled Castes	Scheduled Tribes	Total	Scheduled Castes	Scheduled Tribes	Total	Scheduled Castes	Scheduled Tribes	Total	Scheduled Castes	Scheduled Tribes	
I.	Indian Administrative Service, etc. Examination, September/October, 1960.	1	345	10376	817	113	5873	387	57	946	86	14	333	32	11	
	Combined Competitive Examination for :															
	1. All India Services															
	(i) Indian Administrative Service ...	...	...	...	...	...	...	...	...	...	...	...	(97) <sup>1</sup>	(9) <sup>1</sup>	(5) <sup>1</sup>	1 Include figures shown against item 12 (iii).
	(ii) Indian Police Service	...	...	...	...	...	...	...	...	...	...	...	* (92) <sup>2</sup>	(9) <sup>2</sup>	(1) <sup>2</sup>	2.3 These include some common candidates. * Result declared after 31-3-61.

1 Include figures shown against item 12 (iii).  
 2.3 These include some common candidates.  
 \*Result declared after 31-3-61.



[illegible]



1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
	(xi) Indian Ordnance Factories Service (Class I). (xii) Cadre of Assistant Engineer (Workshops) Class II. Engineering Services Examination (Electronics) August 1960. Combined Examination for : (i) Junior Scientific Officer (Class II) Ministry of Defence. (ii) Assistant Engineer (Class II Non-gazetted) Ministry of Information and Broadcasting. (iii) Technical Officer (Class I) Ministry of Transport and Communications. (iv) Technical Officer (Class II) Ministry of Transport and Communications. (v) Assistant Engineer (Class II) Ministry of Transport and Communications. (vi) Technical Assistant (Class II Non-gazetted) Ministry of Transport and Communications. (vii) Engineer (Class I) Ministry of Transport and Communications.	1	180	327	6	1	170	2	...	74	2	...	71	2	...	
VII.																
VIII.	Survey of India (Class I and II) Examination : November 1960.	1	8	164	8	2	93	5	1	22	2	...	8	2	...	Result declared after 31-3-61.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
IX.	Examination for Selection of Special Class Railway Apprentices : June 1960.	1	13	2270	107	9	1557	54	4	102	16	2	13*	4*	1	*Of these, 6 candidates including I.S.C. candidate recommended after 31-3-61.
X.	National Defence Academy Examinations : May 1960. Re-examination : August 1960.	1	239	3229	29	4	2555	13	2	960	...	...	260	...	...	Result declared after 31-3-61.
		1	...	60	...	...	55	...	...	...	...	...	...	...	...	Result declared after 31-3-61.
XI.	December 1960. Indian Military Academy Examinations : April 1960.	1	295	3262	13	2	2619	15	2	912	3	...	346	1	...	Result declared after 31-3-61.
		1	89	1224	10	6	845	10	5	286	...	1	70	...	...	Result declared after 31-3-61.
XII.	November 1960. Air Force Flying College Examinations : April 1960.	1	94	1659	12	6	1231	9	4	563	...	1	119	...	1	Result declared after 31-3-61.
		1	18	1017	26	11	595	12	6	166	1	...	20	...	...	Result declared after 31-3-61.
XIII.	November 1960. Indian Navy Examinations : July 1960.	1	43	1324	19	2	851	8	1	287	...	...	42	...	...	Result declared after 31-3-61.
		1	5	380	4	...	151	...	...	25	...	...	2	...	...	Result declared after 31-3-61.
XIV.	December 1960. Army Medical Corps Examination : July 1960.	1	5	290	7	4	138	2	...	22	1	...	4	...	...	Result declared after 31-3-61.
		1	25	101	...	...	55	...	...	48	...	...	36	...	...	Result declared after 31-3-61.
XV.	Assistant Superintendents' Examination : June 1960.	1	20	2360	134	3	1661	109	1	...	...	...	44	27	1	Result declared after 31-3-61.
XVI.	Stenographers' (Scheduled Caste/ Scheduled Tribes) Examination : December 1960.	1	134	213	183	25	140	122	18	...	...	...	11	10	1	Result declared after 31-3-61.
XVII.	Stenographers Examination (for Central Statistical Organization, Calcutta) : June 1960.	1	...	6	6	...	6	...	...	...	...	...	1	...	...	Result declared after 31-3-61.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
XVIII.	Typewriting Tests (English) for Civil Secretariat Staff: April 1960.	1	...	166	...	...	133	...	...	...	...	...	58	...	...	...
	June 1960.	1	...	174	...	...	130	...	...	...	...	...	53	...	...	...
	October 1960.	1	...	185	...	...	125	...	...	...	...	...	54	...	...	...
	January 1961.	1	...	98	...	...	70	...	...	...	...	...	43	...	...	...
XIX.	Typewriting Test (English) for Armed Forces Headquarters Personnel: April 1960.	1	...	63	...	...	57	...	...	...	...	...	27	...	...	...
	June 1960.	1	...	45	...	...	37	...	...	...	...	...	9	...	...	...
	October 1960.	1	...	40	...	...	32	...	...	...	...	...	8	...	...	...
	January 1961.	1	...	26	...	...	11	...	...	...	...	...	8	...	...	...
XX.	Typewriting Test (Hindi) for Civil Secretariat Staff: April 1960.	1	...	27	...	...	22	...	...	...	...	...	19	...	...	...
	June 1960.	1	...	23	...	...	19	...	...	...	...	...	14	...	...	...
	October 1960.	1	...	6	...	...	4	...	...	...	...	...	3	...	...	...
	January 1961.	1	...	8	...	...	7	...	...	...	...	...	2	...	...	...
XXI.	Typewriting Test (Hindi) for Armed Forces Headquarters Personnel: April 1960.	1	...	3	...	...	2	...	...	...	...	...	1	...	...	...
XXII.	Weekly Typewriting Tests (English) at Delhi for:															
	(a) Civil Secretariat Staff	38	...	3011	...	...	2490	...	...	...	...	...	1168	...	...	...
	(b) A.F.H.Q. Staff	...	...	422	...	...	358	...	...	...	...	...	183	...	...	...

TOTAL 73 1670 34349 1422 192 23072 777 105 4862 122 19 3298\* 92\* 17\* \*Do not include figures shown against item 11 and 12.

### APPENDIX 3

#### Recruitment through Interview between 26th January, 1950 to 31st March, 1951.

<i>Name of Ministry/Department from which requisition received</i>	<i>Number of Posts</i>		
	<i>Technical</i>	<i>Engineering</i>	<i>Non- Technical</i>
Agriculture	54	8	13
Chief Commissioner's Province	2	...	7
Commerce	2	3	24
Communications	34	36	...
Council of Scientific and Industrial Research	...	...	1
Defence	35	35	44
Education	8	1	43
External Affairs	...	...	12
Finance	1	2	21
Health	24	7	14
Home Affairs	1	2	4
Industry and Supply	9	16	35
Information and Broadcasting	9	140	63
Labour	14	2	78
Law	...	...	3
Railways	4	7	2
Rehabilitation	...	2	1
States	6	...	1
Transport	...	28	...
Works, Mines and Power	30	71	8
<i>Total</i>	233	360	374
Total number of posts for which recruitment made	...	...	967

# APPENDIX 4

## Recruitment Through Interview Between 1960-61.

No. Sl.	Name of the Ministry/ Department/State	NUMBER OF POSTS			Total
		Engine- ering	Other Technical	Non- Technical	
1	2	3	4	5	6
1.	Cabinet Secretariat	...	6	...	6
2.	Commerce and Industry	18	25	59	102
3.	Community Development and Co-operation	...	6	30	36
4.	Defence	86	205	34	325
5.	Education	1	1	45	47
6.	External Affairs	...	...	4	4
7.	Finance	...	...	29	29
8.	Food and Agriculture	32	195	101	328
9.	Health	13	188	21	222
10.	Home Affairs	8	4	26	38
11.	Information and Broadcasting	5	3	108	116
12.	Irrigation and Power	68	42	...	110
13.	Labour and Employment	7	29	68	104
14.	Law	...	...	4	4
15.	Planning Commission	1	10	13	24
16.	Railways	25	7	7	39
17.	Rehabilitation	14	4	4	22
18.	Scientific Research and Cul- tural Affairs	17	29	19	65
19.	Steel, Mines and Fuel.	51	185	29	265
20.	Transport and Communication	167	159	13	339
21.	Works, Housing and Supply	36	29	27	92
22.	Delhi Administration	15	26	24	65
23.	Himachal Pradesh Administra- tion.	15	35	17	67
24.	Manipur Administration	...	1	4	5
25.	Tripura Administration	2	5	5	12
TOTAL		581	1194	691	2466

## APPENDIX 5

### Nature of Posts for which Recruitment made through Interview

<i>Year</i>	<i>Engineering</i>	<i>Technical</i>	<i>Non-Technical</i>	<i>Total</i>	<i>Remarks</i>
1950-1951	360	233	374	967	
1951-1952	123	320	203	646	
1952-1953	433	403	521	1357	
1953-1954	187	514	371	1072	
1954-1955	303	591	365	1259	
1955-1956	664	624	502	2090	
1956-1957	1256	664	853	2773	
1957-1958	233	737	394	1364	
1958-1959	483	1014	594	2091	
1959-1960	415	1082	535	2032	
1960-1961	581	1194	691	2466	

## APPENDIX 6

Consultations with the Commission during 1950-51—1959-60.

Year	NUMBER AND NATURE OF CASES IN WHICH ITS ADVICE IS NOT ACCEPTED										
	No. of cases under its consideration during the year*	No. of cases in which its advice is not accepted by Government	Recruitment	Temporary appointments	Grant of extension of service	Re-employment	Promotions	Claims for re-imbursment of legal expenses incurred by Government servants	Claims for the award of extraordinary pension in respect of injuries sustained by Government servants	Disciplinary cases	Other Matters
1	2	3	4	5	6	7	8	9	10	11	12
1950-1951	1320	6	Nil	2	1	Nil	1	Nil	Nil	2	Nil
1951-1952	1409	1	Nil	Nil	1	Nil	Nil	Nil	Nil	Nil	Nil
1952-1953	1512	2	1	Nil	Nil	1	Nil	Nil	Nil	Nil	Nil
1953-1954	1673	4	Nil	Nil	3	1	Nil	Nil	Nil	Nil	Nil
1954-1955	1514	1	1	Nil	Nil	Nil	Nil	Nil	Nil	1	Nil
1955-1956	1776	1	Nil	Nil	Nil	Nil	Nil	Nil	Nil	1	Nil
1956-1957	2556	1	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
1957-1958	2771	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
1958-1959	3059	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
1959-1960	2249	1	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
TOTAL		17	2	2	5	2	1	Nil	Nil	4	Nil

\*These cases do not include about two thousand to three thousand cases referred to every year in which the Commission's advice is not obligatory.

## APPENDIX 7

### Form of Requisition

.....Ministry/Office Requisition for the recruitment of candidates for appointment to the post (s) of.....

1. (a) Designation of the post.  
(b) Number of posts to be filled.
2. Class and service to which the post belongs [See rule 14 of the Civil Services (Classification, Control and Appeal) Rules].
3. (a) If the post is permanent, please state :
  - (a) By whom the post is held or was last held;
  - (b) Whether the Commission were consulted on his appointment;
  - (c) If the answer to (b) is in the affirmative, the number and date of the reference to the Commission and of the latter's reply;
  - (d) If the answer to (b) is in the negative, the reasons for which a reference to the Commission was not made; and
  - (e) The nature of the vacancy and how it has arisen.
3. (b) If the post is temporary, please state :
  - (a) when it was sanctioned;
  - (b) the period for which it has been sanctioned;
  - (c) irrespective of the period of sanction, how long it is expected to last and whether



on a permanent basis eventually;

- (d) by whom the post is held or was last held. His date of appointment, his age and qualifications, academic training, experience, etc., with dates should be given;
  - (e) whether the Commission were consulted on his appointment and/or on the filling of the post;
  - (f) if the answer to (e) is in the affirmative, the number and date of the reference to the Commission and of the latter's reply; and
  - (g) if the answer to (e) is in the negative, the reasons for which a reference to the Commission was not made.
- 4. Whether pensionable or non-pensionable.
  - 5. Period of probation, if any.
  - 6. Can the appointment be terminated by notice? If so, on what conditions.
  - 7. (a) Duties.  
(b) Place or places in which the officer (s) will be required to serve.
  - 8. When will the selected candidates be required to join?
  - 9. Scale of Pay.  
(a) For direct recruits.  
(b) For persons who have been in continuous employ since 15th July, 1931.
  - 10. Can higher initial pay be granted for specially well qualified and experienced candidate? If so, please specify the limit.

11. Prospects of promotion to higher posts or to higher time-scales or pay, if it is desired to state them.
12. Provident Fund. Pension Fund.
13. Any special concessions, such as free quarters, light, water.
14. Qualifications required.
  - (a) Academic (If more than one qualification is prescribed, it should be stated which is considered to be most important).
  - (b) Training.
  - (c) Experience.
  - (d) Any other qualifications.
  - (e) Specify which of the above requirements will be strictly adhered to.
  - (f) Will equivalent qualifications be accepted. (If so, equivalent should be stated.)
15. Age limits (if any). (The age limits laid down will be strictly adhered to by the U.P.S.C save in exceptional circumstances but in no case beyond a limit of three years).
16. Nationality.
17. Domicile.
18. Are Government servants eligible ?  
If so, will any of the conditions be relaxed in their favour. The conditions to be relaxed should be indicated.
19. Are members of any particular community or communities to be preferred ? If so, the degree of preference to be given should be stated.  
Is there any reservation for Scheduled Castes ?
20. Name and address and telephone number of the Ministry representative who will be present at the interview.
21. Any other conditions or qualifications not covered by the above questions.

## APPENDIX 8

Statement for the month of.....showing first appointments to class I and class II of a Central Service or to a Ministerial Service in the Government of India Secretariat and attached offices made without reference to U.P.S.C.

MINISTRY OR OFFICE.....

Particulars in respect of the persons appointed, promoted or transferred			Particulars in respect of the post filled.		Nature of appointment		Remarks
Name	Appointment held under Government, if any, prior to appointment to the post mentioned in columns 4 and 5.		(a) Name of post.	Is the post (a) Permanent, or (b) Temporary, or (c) a tenure post. If temporary, state period for which sanctioned and if this period is likely to be extended.	Whether it is permanent or temporary or officiating (if temporary or officiating state the period for which the person appointed is likely to hold the post.	Whether it is permanent or temporary or officiating (if temporary or officiating state the period for which the person appointed is likely to hold the post.	Authority under which the appointment was made with reference to the Commission.
	(a) Name of post	(b) Classification.	(b) Classification (if the post has not been classified this should be stated).				
1	2	3	4	5	6	7	8

## APPENDIX 9

Particulars relating to the disciplinary case referred to the Union Public Service Commission with letter No.....dated.....

1. Name of accused officer.
2. Whether Temporary/Permanent/Contract Service.
3. Post held substantively if in permanent service.
  - (a) Designation.
  - (b) Scale of Pay.
  - (c) Pay drawn.
  - (d) Date from which pay shown against (c) drawn.
4. Post held at present in an officiating capacity :
  - (a) Designation.
  - (b) Scale of Pay.
  - (c) Pay drawn.
  - (d) Date from which pay shown against (c) drawn.
5. The next lower post the officer would have held but for his appointment to the present post he is holding.
6. Post, if any, in which quasi-permanent.
7. *Increment :*
  - (a) Date of next increment in post in which officiating at present.
  - (b) Date of next increment in post in which officiating at present.
8. Date of birth.
9. Date of joining Government service.
10. Date when due to retire.
11. (a) Appointing authority in respect of the post held at present or the authority which actually appointed the person, if that authority is higher.

- (b) Punishing authority in respect of the post held at present.
- (c) Appellate authority in respect of the post held at present.
- 12. Whether an oral enquiry, if required under the rules, has been held.
- 13. Name and designation of the Enquiry Officer appointed, if any.
- 14. Whether all the relevant documents in *original*, particularly the following have been enclosed with the letter seeking the Commission's advice.

*Reference*

(e.g., P. 27/Cor. F. No.—)

(A) *In the case of original enquiries :*

- (i) Papers relating to preliminary enquiry, if any.
- (ii) Suspension order, if any.
- (iii) Charge-sheet with the statement of allegations.
- (iv) Explanation of the accused officer to the charge-sheet.
- (v) Record of the oral enquiry, if any.
- (vi) Enquiry Officer's report.
- (vii) Show cause notice for inflicting a major penalty.
- (viii) Reply of the accused officer to the show cause notice.
- (ix) Miscellaneous documents regarding evidence such as exhibits, etc.

(B) *In the case of appeals :*

In addition to the documents specified under (A) above the following :

- (i) Order of the punishing authority.
- (ii) Appeal, if any, of the accused officer.
- (iii) Comment on the appeal.

(C) *In the case of Petitions/Memorials :*

In addition to the documents specified under (A) and (B) above, the following :

- (i) Orders, if any, on the appeal.
  - (ii) Petition or Memorial, if any, from the accused officer.
15. If no enquiry has been held, whether a self-contained report containing the findings on the facts of the case as required in the Ministry of Home Affairs O.M.No. 39/23/54-Ests. dated 18-6-54 has been enclosed *in original*.
  16. Whether comments on procedural points, if any, raised by the officer in this explanation to the charge sheet/ reply to show cause notice/appeal/ petition have been given. *References;*
  17. Whether complete and up-to-date confidential roll of the officer has been enclosed.

Signature.....

Name in block letters

of officer signing

this statement.....

Designation.....

Date.....

Telephone Number.....

## APPENDIX 10

Professional background of the members of the U.P.S.C.  
(1950-1962)

Year (1st April to 31st March)	Total No. of Members	I.C.S.	State Civil Service	Education- ists	Engine- ers	Scien- tists	Retired Judges	Ex-Spea- kers	Ex-Members or Ex-Chair- men of State P.S.Cs.
1950-1951*	4-6	2	††1	**1	†1	—	1	—	—
1951-1952	7	2	1	2	1	—	1	—	—
1952-1953	5	2	—	2	1	—	—	—	—
1953-1954	7	2	—	2	1	—	—	—	2
1954-1955	6	2	—	1	1	—	—	—	2
1955-1956	6	2	—	1	1	—	—	—	2
1956-1957	6-7	2	—	1	1	—	—	—	2
1957-1958	8	2	—	2	1	—	—	—	2
1958-1959	7	2	—	2	1	—	—	—	1
1959-1960	8	2	—	1	1	—	1	1	2†
1960-1961	8	2	—	1	1	—	1	1	2
1961-1962	7-8	2	—	1	2	1	1	—	2
12 Years	21	5	1	4	3	1	2	1	4

\*The F.P.S.C. was renamed as U.P.S.C. on 26th Jan. 1950. \*\*G.C. Chatterji originally belonged to the Indian Educational Service. †N. Govindarajan was a member of I.S.E. (Retired). ††Javad Hussain, a member of Madras Provincial Civil Service, was appointed earlier as a Member of the Federal Commission. §P.L. Varma was a retired Chief Engineer, East Punjab. ¶Dr. A.T. Sen who was a scientist also acted as the Chairman of the State Public Service Commission, West Bengal. \*\*\*A.V. Ramasawmi was Chief Engineer, Octavius Steel & Co., Electric Supply Department, Calcutta (1959-60) and also acted as Chief Engineer, Southern Group of Companies (1955-1959).

## APPENDIX 11

### Chairmen of the U.P.S.C. (1950-1965).

1. R.N. Banerjee, I.C.S. : 26th January 1950—10th May, 1955.
2. N. Govindarajan, I.S.E. (Retired) : 10th May, 1955—10th December, 1955.
3. V.S. Hejmadi, I.C.S. : 10th December 1955—9th December, 1961.
4. B.N. Jha, I.C.S. : 11th December 1961.



## APPENDIX 12

### Members of the U.P.S.C. (1950-1965).

1. Javad Hussain
2. Puranik
3. G.C. Chatterji
4. N. Govindarajan
5. C.B. Nagarkar
6. N.K. Sidhanta
7. A.A.A. Fyze
8. S.V. Kanungo
9. J. Sivashanmugham Pillai
10. C.V. Mahajan
11. J.N. Mukherjee
12. P.L. Varma
13. S.H. Zaheer
14. Dr. G.S. Mahajani
15. Dr. A.T. Sen
16. M.L. Chaturvedi
17. Venkataraman Naidu
18. A.V. Ramasawmi

## **APPENDIX 13**

### **Secretaries of The U.P.S.C. (1950-1965)**

1. D.S. Das, I.C.S.
2. N.S. Mani, I.C.S.
3. C. Ganesa Aiyar
4. H.K. Tandon, I.A.S.
5. Virendra Kumar
6. Rajendra Lal

## APPENDIX 14

I.A.S., etc., Combined Examination

### UNION PUBLIC SERVICE COMMISSION NOTICE

F.1/9/64-E1 (B)

New Delhi, the 6th March, 1965.

A combined competitive examination for recruitment to the following categories of Services:

#### Category I

- (i) The Indian Administrative Service, and
- (ii) The Indian Foreign Service.

#### Category II

- (i) The Indian Police Service, and
- (ii) The Delhi & Himachal Pradesh Police Service Class II.

#### Category III

##### (a) Class I Services :

- (i) The Central Information Service, (Grade II), Class I,
- (ii) The Indian Audit & Accounts Service,
- (iii) The Indian Customs & Central Excise Service,
- (iv) The Indian Defence Accounts Service,
- (v) The Indian Income-tax Service (Class I),
- (vi) The Indian Ordnance Factories Service, Class I, (Assistant Managers—Non-Technical),
- (vii) The Indian Postal Service, Class I,
- (viii) The Indian Railway Accounts Service,
- (ix) The Military Lands and Cantonments Service, Class I, and
- (x) The Transportation (Traffic) and Commercial Departments of the Superior Revenue Establishment of Indian Railways,

##### (b) Class II Services :

- (i) The Central Secretariat Service, Section Officers' Grade, Class II,
- (ii) The Customs Appraisers' Service, Class II,
- (iii) The Delhi & Himachal Pradesh Civil Service, Class II,
- (iv) The Indian Foreign Service, Branch (B), Section Officers' Grade, Class II,
- (v) The Railway Board Secretariat Service, Class II, and
- (vi) The Military Lands and Cantonments Service, Class II,

will be held by the Union Public Service Commission at Ahmedabad, Allahabad, Bangalore, Bhopal, Bombay, Calcutta, Cuttack, Delhi, Hyderabad, Jaipur, Madras, Nagpur, Patiala, Patna, Shillong, Trivandrum, and London commencing on the 8th October, 1965 in accordance with the

Rules published by the Ministry of Home Affairs in the Gazette of India, dated the 6th March, 1965.

The centres and the date of commencement of the Examination as mentioned above are liable to be changed at the discretion of the commission, candidates accepted for admission to the examination will be informed at what place, at what time and on what dates they should present themselves.....

3. A candidate may apply for admission to the Examination in respect of any one or more of the categories of Services covered by the scheme of the Examination in accordance with the provisions of the Ministry of Home Affairs notification No. 20/2/55-AIS (I), dated 6th March, 1965. Once an application has been made, no change will ordinarily be allowed.....

N.B.—Candidates are required to specify clearly in their applications the Services covered by the category/categories concerned, for which they wish to be considered in the order of preference. They may not be considered for Services which are not mentioned, even though the Services may be covered by the category/categories for which they are applying.....

4. A candidate seeking admission to the examination must apply to the Union Public Service Commission, Dholpur House, New Delhi-11, on the prescribed form of application which must reach the Commission on or before the 3rd May, 1965, accompanied with the necessary documents in accordance with the Instructions to candidates contained in Annexure II. No application received after that date will be considered.

Applications from candidates residing abroad and those residing in the Andaman and Nicobar Islands will, however, be accepted up to 17th May, 1965. (This is applicable to persons actually residing abroad or in the Andaman and Nicobar Islands at the time of submitting their applications).

5. Copies of application forms and full particulars are obtainable from the Secretary, Union Public Service Commission, Dholpur House, New Delhi-11, on payment of Rupee one, which should be remitted to the Commission by Money Order stating the name of the examination in respect of which the application forms are required. Postal Orders or cheques or currency notes will not be accepted in lieu of money orders. The forms, etc., can also be obtained on cash payment at the counter in the Commission's office. The amount of Rupee one will in no case be refunded.....

8. If any candidate who took the Indian Administrative Service, etc., Examination held in October/November 1964, wishes to apply for admission to this examination, he must submit his application by the prescribed date without waiting for the results or an offer of appointment. If he is appointed on the results of the 1964 examination, his candidature for the 1965 examination will be cancelled on request and the fee refunded to him in full.

9. All communications in respect of any application should be addressed to the Secretary, Union Public Service Commission, Dholpur House, New Delhi-11, and should contain the following particulars :

- (i) Name of examination.
- (ii) Month and year of Examination.
- (iii) Roll number (if Communicated to Candidate).
- (iv) Name of Candidate.
- (v) Address as given in Application.

Communications not giving these particulars may not be attended to. In all correspondence with the Union Public Service Commission concerning this examination, candidates should invariably superscribe their envelopes and correspondence with the words "Indian Administrative Service, etc., Examination, 1965".

RAJENDRA LAL

*Secretary,*

*Union Public Service Commission.*

## ANNEXURE II

### *Instructions to Candidates*

2. The application form must be filled in the candidate's own handwriting and all answers should be given in words. It should be submitted direct to the Secretary, Union Public Service Commission-Dholpur House, New Delhi-11.

No application received by the Commission after the date prescribed in the Notice will be accepted.....

4. A candidate must send the following documents with his application :

- (i) Treasury Receipt or CROSSED Indian Postal Orders payable to the Secretary, Union Public Service Commission at New Delhi Post Office for the prescribed fee.
- (ii) Certificate of Age.
- (iii) Certificate of Character.
- (iv) Certificate of Educational Qualification.
- (v) Two copies of recent passport size (5 cm. × 7 cm. approx.) photograph of the candidate.....

Ministry of Home Affairs

Rules

New Delhi, the 6th March, 1965.

No. 20/2/65-AIS (1)—The rules for a competitive examination to be held by the Union Public Service Commission in October/November, 1965 for the purpose of filling vacancies in the following services are with the concurrence of the Ministries concerned and the Comptroller and Auditor General of India in respect of the Indian Audit and Accounts Service, published for general information.....

2. The examination will be conducted by the Union Public Service Commission in the manner prescribed in Appendix II to these Rules.

The dates on which and the places at which the examination will be held shall be fixed by the Commission.

3. Candidates who obtain such minimum qualifying marks in the written examination as may be fixed by the Commission in their discretion shall be summoned by them for an interview for a personality test.

After the examination, the candidates will be arranged by the Commission in the order of merit as disclosed by the aggregate marks finally awarded to each candidate and in that order so many candidates as are found by the Commission in their discretion to be qualified by the examination shall be recommended for appointment up to the number of unreserved vacancies decided to be filled on the results of the examination.

Provided that any candidate belonging to the Scheduled Castes or the Scheduled Tribes, who though not qualified by the standard by the Commission for any Service, is declared by them to be suitable for appointment thereto with due regard to the maintenance of efficiency of administration, shall be recommended for appointment to vacancies reserved for members of the Scheduled Castes and the Scheduled Tribes, as the case may be, in that Service.....

Due consideration will be given to the preferences expressed by a candidate at the time of his application but the Government of India reserve the right to assign him to any Service for which he is a candidate.

Provided a candidate who has already been appointed to a permanent post in a Class I Service in Category III on the results of an earlier I. A. S., etc., examination will not be considered for allotment to another Class of Service within this Category on the results of a later examination.

*Note* :—The form and manner of communication of the result of the examination to individual candidates shall be decided by the Commission in their discretion.

4. The combined competitive examination for recruitment to I. A. S., etc., is to be treated as comprising three separate and distinct examinations for three categories of Services, viz., (1) I. A. S., and I. F. S. (2) I. P. S. and Delhi and Himachal Pradesh Police Service and (3) Central Services and Delhi and Himachal Pradesh Civil Service.

5. No candidate who does not belong to a Scheduled Caste or a Scheduled Tribe or is not a resident of the Union Territory of Pondicherry or is not a resident of the Andaman & Nicobar Islands or is not a repatriate from Ceylon or is not a resident of the Union Territory of Goa, Daman and Diu or is not a migrant from Kenya, Uganda, and the United Republic of Tanzania (formerly Tanganyika and Zanzibar) shall be permitted to compete more than two times at the examination for each of the three categories of Services mentioned in Rule 4 above, but this restriction is effective from the examination held in 1961.

*Note*.—A candidate shall be deemed to have competed at the examination if he actually appears in any one or more subjects.

6. (a) (i) A candidate for the Indian Administrative Service, the Indian Foreign Service and for all the remaining services, excepting the Indian Police Service and Delhi and Himachal Pradesh Police Service mentioned in paragraph 1 above must have attained the age of 21 years and must not have attained the age of 24 years on the 1st August, 1965, i.e., he must have been born not earlier than 2nd August, 1941 and not later than 1st August, 1944.

(ii) A candidate for the Indian Police Service and Delhi and Himachal Pradesh Police Service must have attained the age of 20 years, and must not have attained the age of 24 years on the 1st August, 1965, i.e., he must have been born not earlier than 2nd August, 1941 and not later than 1st August 1945.....

7. A candidate already in Government Service, whether in a permanent or a temporary capacity, must obtain prior permission of the Head of the Department to appear for the Examination.

8. (a) A candidate for the Indian Administrative Service and Indian Foreign Service must hold a degree in Arts, Science (but not a Science degree in Technology or Chemical Engineering), Commerce, Agriculture or in Civil, Mechanical or Electrical (including Tele-Communication) Engineering of one of the Universities enumerated in Appendix I, or possess one of the qualifications 1 to 10 mentioned in Appendix I-A.....

*Note.*—Any question whether a candidate is educationally eligible for admission to the examination shall be decided by the Commission, whose decision will be final.....

*Note II.*—Candidates who are otherwise qualified but who have taken degrees from Foreign Universities which are not included in Appendix I, may also apply to the Commission and may be admitted to the examination at the discretion of the Commission.

9. (1) For the Indian Administrative Service and the Indian Police Service, a candidate must be citizen of India.....

10. (a) No male candidate who has more than one wife living or who having a spouse living, marries in any case in which such marriage is void by reason of its taking place during the life time of such spouse, shall be eligible for appointment to any of the Services, appointments to which are made on the results of this competitive examination unless the Government of India, after being satisfied that there are special grounds for doing so, exempt any male candidate from the operation of this rule.

(b) No female candidate whose marriage is void by reason of the husband having a wife living at the time of such marriage or who has married a person who has a wife living at the time of such marriage shall be eligible for appointment to any of the Services, appointments to which are made on the results of this competitive examination unless the Government of India after being satisfied that there are special grounds for doing so, exempt any female candidate from the operation of this rule,

11. It will be open to the Government of India, not to appoint to the Indian Administrative/Indian Police Service/Delhi and Himachal Pradesh Civil Service/Delhi and Himachal Pradesh Police Service, a woman candidate who is married or to require such a candidate who is not married, to resign from the Service in the event of her marrying subsequently if the maintenance of the efficiency of the Service so requires.

12. For the Indian Foreign Service a woman candidate is eligible only if she is unmarried or a widow without encumbrances. If such a candidate is selected, she will be appointed on the express condition that she might be called upon to resign from the Service on marriage or re-marriage.

Under no circumstances, the officers appointed to the Indian Foreign Service Branch 'A' or 'B' will be allowed to marry persons other than of Indian nationality.

13. A candidate must be in good mental and bodily health and free from any physical defect likely to interfere with the discharge of his duties as an officer of the Service. A candidate who after such medical examination as Government or the appointing authority, as the case may be, may prescribe is found not to satisfy these requirements, will not be appointed. Any candidate called for the Personality Test by the Commission may be required to undergo medical examination.....

14. Success in the examination confers no right to appointment, unless Government are satisfied after such enquiry as may be considered necessary, that the candidate is suitable in all respects for appointment to the Service.

15. The decision of the Commission as to the eligibility or otherwise of a candidate for admission to the examination shall be final.

16. No candidate will be admitted to the examination unless he holds a certificate of admission from the Commission.....

18. Any attempt on the part of a candidate to obtain support for his candidature by any means may disqualify him for admission.....

20. Candidates are informed that some knowledge of Hindi prior to entry into service would be of advantage in passing departmental examinations which candidates have to take after entry into service.

**O. S. MARWAH**  
*Under Secretary*



## APPENDIX II

### Section I

#### Plan of the Examination

The competitive examination comprises :

(A) Written examination in—

- (i) three compulsory subjects (for all services), Essay, General English, and General knowledge, each with a maximum of 150 marks (see Sub Section (a) of Section II below);
- (ii) a selection from the optional subjects set out in Sub-Section (b) of Section II below. Subject to the provisions of that Sub-Section, candidates may take optional subjects up to a total of 600 marks for all Services except the Services under Category II (of Rules 1 & 4) for which optional subjects up to a total of 400 marks only may be taken. The standard of these papers will be approximately that of an Honours Degree Examination of an Indian University; and
- (iii) a selection from the additional subjects set out in Sub-Section (c) of Section II below up to a total of 400 marks for the Indian Administrative Service and Indian Foreign Service (Category I). The standard of these papers will be higher than that prescribed for the optional subjects under Sub Section (A) (ii) above.

(B) Interview for Personality Test (vide Part D of the Schedule to this Appendix) of such candidates as may be called by the Commission, carrying maximum marks as follows :

Category I

Indian Foreign Service	...	400
Indian Administrative Service	...	300

Categories II and III

All Services	...	200
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### SECTION II

#### Examination Subjects

(a) Compulsory subjects (vide Sub Section A (i) of Section II above) :

		Maximum Marks
(1) Essay	...	150
(2) General English	...	150
(3) General Knowledge	...	150

Note : The syllabi of the subjects mentioned above are given in Part A of the Schedule to this Appendix.

(b) Optional subjects (vide Sub Section A (ii) of section I above).

Candidates for Services under Category II (of Rules 1 and 4) may offer any two, and for all other Services any three . . . subjects : .....

Candidates competing for the Indian Administrative Service/Indian Foreign Service (Category I), must also select any two subjects...

### SECTION III

#### General

1. ALL QUESTION PAPERS MUST BE ANSWERED IN ENGLISH, EXCEPT QUESTION PAPERS IN LANGUAGES WHICH, UNLESS SPECIFICALLY REQUIRED OTHERWISE, MAY BE ANSWERED IN ENGLISH OR IN THE LANGUAGE CONCERNED.

2. The duration of each of the papers referred to in Sub-Sections (a), (b) and (c) of Section II above will be 3 hours.

3. Candidates must write the papers in their own hand. In no circumstances, will they be allowed the help of a scribe to write the answers for them.

4. The Commission have discretion to fix qualifying marks in any or all the subjects of the examination.

5. For the Indian Administrative Service and the Indian Foreign Service (Category I) the two additional papers of only such candidates will be examined and marked as attain such minimum standard as may be fixed by the Commission in their discretion at the written examination in all the other subjects.

6. If a candidate's handwriting is not easily legible a deduction will be made on this account from the total marks otherwise accruing to him.

7. From the marks assigned to candidates in each subject such deduction will be made as the Commission may consider necessary in order to secure that no credit is allowed for merely superficial knowledge.

8. Credit will be given for orderly, effective and exact expression combined with due economy of words in all subjects of the examination.

9. Candidates are expected to be familiar with the metric system of weights and measures. In the question papers, wherever necessary, questions involving the use of metric system of weights and measures may be set.

### SCHEDULE

#### Part A

(Vide Sub-Section (a) of Section II of Appendix II)

1. Essay—Candidates will be required to write an essay in English; a choice of subjects will be given. They will be expected to keep closely to the subject of the essay, to arrange their ideas in orderly fashion, and to write concisely; credit will be given for effective and exact expression.

2. General English—Questions to test the understanding of and the power to write English. Passages will usually be set for summary or precis.

3. General Knowledge—Including knowledge of current events and of such matters of everyday observation and experience in their scientific aspects as may be expected of an educated person who has not made a special study of any scientific subject. The paper will also include questions on Indian History and Geography of a nature which candidates should be able to answer without special study and questions on the teachings of Mahatma Gandhi.

### APPENDIX III

Brief particulars relating to the Service to which recruitment is being made through this Examination.

1. INDIAN ADMINISTRATIVE SERVICE. (a) Appointments will be made on probation for a period of two years which may be extended. Successful candidates will be required to undergo probation at such place and in such manner and pass such examinations during the period of probation as the Government of India may determine.

(b) If, in the opinion of Government, the work or conduct of an officer on probation is unsatisfactory or shows that he is unlikely to become efficient, Government may discharge him forthwith.

(c) On the conclusion of his period of probation, Government may confirm the officer in his appointment or, if his work or conduct has in the opinion of Government been unsatisfactory, Government may either discharge him from the Service or may extend his period of probation for such further period as Government may think fit.

(d) If the power to make appointments in the Service is delegated by Government to any officer that officer may exercise any of the powers of Government under clauses (b) and (c) above.

(e) An officer belonging to the Indian Administrative Service will be liable to serve anywhere in India or abroad either under the Central Government or under a State Government.

(f) Scales of Pay :

Junior Scale—Rs. 400—400—500—40—700—EB—30—1,000 (19 years).

Senior Scale :

(i) Time Scale—Rs. 900 (6th year or under)—50—1,000—60—1,600—50—1,800. (25 years).

(ii) Selection Grade—Rs. 1,800—100—2,000.

In addition there are super-time scale posts carrying pay between Rs. 2,150 and Rs. 3,000 to which Indian Administrative Service officers are eligible for promotion.

Dearness allowance will be admissible in accordance with the orders issued from time to time.

A probationer will be started on the junior time scale and permitted to count the period spent on probation towards leave, pension or increment in the time scale.

(g) Provident Fund—Officers of the Indian Administrative Service are governed by the All India Services (Provident Fund) Rules, 1955.

(h) Leave—Officers of the Indian Administrative Service are governed by the All India Services (Leave) Rules, 1955.

(i) Medical Attendance—Officers of the Indian Administrative Service are entitled to medical attendance benefits admissible under the All India Services (Medical Attendance) Rules, 1954.

(j) Retirement Benefits—Officers of the Indian Administrative Service appointed on the basis of Competitive Examination are governed by the All India Services (Death-cum-Retirement Benefits) Rules, 1958.

2. INDIAN FOREIGN SERVICE : (a) Appointment will be made on probation for a period which will not ordinarily exceed 3 years. Successful candidates will be required to pursue a course of training in India for approximately one and a half years. Thereafter they may be posted as Third Secretaries or Vice-Consuls in Indian Missions whose languages are allotted to them as compulsory languages. During their period of training the probationers will be required to pass one or more departmental examinations before they become eligible for confirmation in service.

(b) On the conclusion of his period of probation to the satisfaction of Government and on his passing the prescribed examinations, the Probationer is confirmed in his appointment. If, however, his work or conduct has, in the opinion of the Government, been unsatisfactory, Government may either discharge him from the Service or may extend his period of probation for such period as they may think fit or may revert him to his substantive post, if any.

(c) If, in the opinion of Government, the work or conduct of an officer on probation is unsatisfactory or shows that he is not likely to prove suitable for the Foreign Service, Government may either discharge him forthwith or may revert him to his substantive post, if any.

(d) Scales of pay :

Junior Scale : Rs. 400—400—500—40—700—EB—30—1,000.

Senior Scale : Rs. 900 (6th year or under)—50—1,000—60—1,600—50—1,800.

In addition there are super-time scale posts carrying pay between Rs. 1,800 and Rs. 3,000 to which I.F.S. Officers are eligible for promotion.

(e) A probationer will receive the following pay during probation :

First Year : Rs. 400 per mensem.

Second Year : Rs. 400 per mensem.

Third Year : Rs. 500 per mensem.

Note : 1. A probationer will be permitted to count the periods spent on probation towards leave, pension or increment in the time scale.

Note : 2. Annual increments during probation will be contingent on the probationer passing the prescribed tests, if any, and showing progress to the satisfaction of Government. Increments can also be earned in advance by passing the departmental examinations.

(f) An officer belonging to the Indian Foreign Service will be liable to serve anywhere inside or outside India.

(g) During Service abroad I.F.S. officers are granted foreign allowances according to their status to compensate them for the increased cost of living and of servants ; and also to meet their special responsibilities in regard to entertainment. In addition, the following concessions are also admissible to I.F.S. officer during service abroad :

- (i) Free furnished accommodation according to status.
- (ii) Medical attendance facilities under the Assisted Medical Attendance Scheme.
- (iii) Return air passage to India up to a maximum of two, for special emergencies such as the death or serious illness of an immediate relation in India or marriage of daughter.
- (iv) Annual return air passage for children between the ages of 8 and 18 studying in India to visit the parents during the long vacations, subject to certain conditions.
- (v) An allowance for the education of children up to a maximum of two children between the ages of 5 and 18 at rates prescribed by Government from time to time.
- (vi) Outfit allowance at the time of departure for training abroad and on confirmation in the service. Outfit allowance is also granted to various stages of an officer's career in accordance with the prescribed rules. Special outfit allowance is admissible in addition to the ordinary outfit allowance to officers posted in countries where abnormally hard climatic conditions exist.
- (vii) Home leave passages for officers, their families and servants after a minimum of 2 years service abroad.

(h) The Revised Leave Rules, 1933, as amended from time to time will apply to Members of the Service subject to certain modifications. For Service abroad I.F.S. Officers are entitled under I.F.S. (PLCA) Rules, 1961, to an additional credit of leave to the extent of 50 per cent of leave admissible under the Revised Leave Rules.....

9. INDIAN INCOME-TAX SERVICE CLASS I. (a) Appointments will be made on probation for a period of 2 years provided that this period may be extended if the officer on probation has not qualified for confirmation by passing the prescribed departmental examinations. Repeated failures to pass the departmental examinations within a period of 3 years will involve loss of appointment.

(b) If, in the opinion of Government, the work or conduct of an officer on probation is unsatisfactory or shows that he is unlikely to become efficient, Government may discharge him forthwith.

(c) On the conclusion of his period of probation, Government may confirm the officer in his appointment or if his work or conduct has in the opinion of Government been unsatisfactory, Government may either discharge him from the service or may extend his period of probation for such further period as Government may think fit, provided that in respect of appointments to temporary vacancies there will be no claim to confirmation.

(d) If the power to make appointments in the service is delegated by Government to any officer, that officer may exercise any of the powers of Government described in the above clauses.

(e) Scales of Pay :

Income Tax Officer, Class I.

Rs. 400—400—450—30—510—EB—700—40—1,100—50/2—1,250.

Assistant Commissioner of Income-tax.

Rs. 1,100—100—2,000.

Note : 1. The officer on probation will not be allowed the pay above the stage of Rs. 400 unless he passes the departmental examinations in accordance with the rules which will be prescribed from time to time.

Note : 2. It should be clearly understood by probationers that their appointment would be subject to any change in the constitution of the Income Tax Service Class I which the Government of India may think proper to make from time to time and that they would have no claim for compensation in cor sequence of any such changes.

#### 15. THE CENTRAL SECRETARIAT SERVICE, SECTION OFFICERS' GRADE, CLASS II

(a) The Central Secretariat Service has, at present, the following grades :

<i>Grade</i>	<i>Scales of pay</i>
Selection Grade—Deputy Secretary or equivalent.	Rs. 1100—50—1300—60—1600—100—1800.
Grade I—Under Secretary	Rs. 900—50—1250.
Section Officers' Grade	Rs. 350—25—500—30—590—EB—30—800—EB—30—830—35—900.
Assistants' Grade	Rs. 210—10—270—15—300—EB—15—450—EB—20—530.

Selection Grade and Grade I are controlled by the Ministry of Home Affairs on an all-Secretariat basis, Section Officers'/Assistants' Grades, however, are controlled by the Ministries.

Direct recruitment is made to the Section Officers' Grade and to the Assistants' Grade only.

(b) Direct recruits to the Section Officers' Grade will be on probation for 2 years during which they will undergo such training and pass such departmental tests as may be prescribed by Government. Failure to show sufficient progress in the course of training or to pass the tests will result in the discharge of the probationers from service.

(c) On the conclusion of his period of probation Government may confirm the officer in his appointment, or if his work or conduct has in the

opinion of Government been unsatisfactory, Government may either discharge him from the Service or may extend his period of probation for such further period as Government may think fit.

(d) If the power to make appointments in the Service is delegated by Government to any officer, that officer may exercise any of the powers of Government described in the above clauses.

(e) Section Officers will normally be heads of Sections, while officers of Grade I will normally be incharge of Branches consisting of one or more sections.

(f) Section Officers will be eligible for promotion to Grade I in accordance with the rules in force from time to time in this behalf.

(g) Officers of Grade I of the Central Secretariat Service will be eligible for appointment to the Selection Grade of the Service and to other higher administrative posts in the Central Secretariat.

(h) As regards leave, pension and other conditions of service officers of the Central Secretariat Service will be treated similarly to other Class I and Class II Officers.....



APPENDIX IV  
REGULATIONS RELATING TO THE PHYSICAL EXAMINATION  
OF CANDIDATES

1. To be passed as fit for appointment a candidate must be in good mental and bodily health and free from any physical defect likely to interfere with the efficient performance of the duties of his appointment.

2. (a) In the matter of the correlation of age, height and chest girth of candidates of Indian (including Anglo-Indian) race it is left to the Medical Board to use whatever correlation figures are considered most suitable as a guide in the examination of the candidates. If there be any disproportion with regard to height, weight and chest girth, the candidate should be hospitalised for investigation and X-ray of the chest taken before the candidate is declared fit or not fit by the Board.

(b) However, for certain services the minimum standard for height and chest girth without which candidates cannot be accepted, are as follows :

	<i>Height</i>	<i>Chest girth</i>	<i>Expansion</i>
		<i>(fully expanded)</i>	
(1) Transportation (Traffic) and Commercial Departments.	152 cms.	84 cms.	5 cms.
(2) Indian Police Service and Delhi and Himachal Pradesh Police Service, Class II.	165 cms.	84 cms.	5 cms.

The minimum height prescribed is relaxable in case of candidates belonging to races such as Gorkhas, Garhwalis, Assamese, Tribals, etc., whose average height is distinctly lower.....

